

Status of 2013 Legislation Recommended by Code Commission

<p>SB 1043 (Edwards) - Administrative Process Act; emergency regulations.</p> <p>Extends the initial effective period of emergency regulations from 12 months to 18 months and adds a requirement that the current authority of the Governor to extend the effective period for up to an additional six months must be exercised by him before the initial 18-month period expires. The bill also makes technical amendments. The bill is a recommendation of the Virginia Code Commission.</p>	<p>Chapter 629</p>
<p>SB 1052 (McDougle) - Revising and recodifying the laws pertaining to wills, trusts, and fiduciaries.</p> <p>Reinserts language that was inadvertently omitted from Chapter 614 of the Acts of Assembly of 2012, which created Title 64.2. The bill contains an emergency clause and provides that it is effective retroactively to the date Title 64.2 took effect. This bill is a recommendation of the Virginia Code Commission.</p>	<p>Chapter 784</p>

TITLE 33.2 ORGANIZATION OUTLINE

Proposed Title 33.2. Highways and Other Surface Transportation Systems.

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

Chapter 1		Definitions; 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		Highway Systems
	Article 1	The Interstate System
	Article 2	The Primary State Highway System
	Article 3	The Secondary State Highway System
	Article 4	Allocation of Highway Funds
Chapter		Limited Access Highways, Scenic Highways and Virginia Byways, and Highways over Dams
Chapter		HOV Lanes and HOT Lanes
Chapter		Toll Facilities and Ferries
Chapter		Local Authority over Highways
	Article	
	Article	
	Article	
Chapter		Offenses Concerning Highways
Chapter		Woodrow Wilson Bridge and Tunnel Compact
Chapter		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		Eminent Domain, Highway Construction Contracts, Limitations on Suits and Contracts, and Highway Contractors' Association
	Article 1	Eminent Domain and Damages
	Article 2	Acquisition of Land Used as Cemeteries
	Article 3	Highway Construction Contracts, Limitations on Suits, and Adjustment of Claims
	Article 4	Highway Contractors' Association
Chapter		Outdoor Advertising in Sight of Public Highways
	Article 1	General Regulations
	Article 2	False and Misleading Signs
Chapter		Rail and Public Transportation
	Article 1	Rail Funds
	Article 2	Virginia - North Carolina Interstate High-Speed Rail Compact

**SUBTITLE III.
TRANSPORTATION FUNDING.**

Chapter		Transportation Funding
	Article 1	Virginia Transportation Infrastructure Bank
	Article 2	Highway Right-of-Way Fund
	Article 3	Transportation Partnership Opportunity Fund
	Article 4	Virginia Alternative Fuels Revolving Fund
	Article 5	Funds for Access Roads
	Article 6	Commonwealth of Virginia Federal Transportation Grant Anticipation Revenue Notes
Chapter		State Revenue Bond Act
Chapter		Public-Private Transportation Act of 1995 (§ 56-556 et seq.)

**SUBTITLE IV.
LOCAL & REGIONAL TRANSPORTATION.**

Chapter		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		Local Transportation Districts

Chapter		Transportation Districts within Certain Counties
Chapter		Chesapeake Bay Bridge and Tunnel District and Commission
Chapter		U.S. Route 58 Corridor Development Program
Chapter		Northern Virginia Transportation District Program
Chapter		Northern Virginia Transportation Authority (§ 15.2-4829 et seq.)
Chapter		Transportation District within the City of Charlottesville and the County of Albemarle
Chapter		Charlottesville-Albemarle Regional Transit Authority (§ 15.2-7022 et seq.)
Chapter		Richmond Metropolitan Authority (§ 15.2-7000 et seq.)
Chapter		Washington Metropolitan Area Transit Regulation Compact (§ 56-529 et seq.)
Chapter		Metropolitan Planning Organizations
Chapter		Virginia Coalfield Coalition Authority

TITLE 33.2 ORGANIZATION OUTLINE

Proposed Title 33.2. Highways and Other Surface Transportation Systems.

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

Chapter 1		Definitions; 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		Highway Systems
	Article 1	The Interstate System
	Article 2	The Primary State Highway System
	Article 3	The Secondary State Highway System
	Article 4	Allocation of Highway Funds
Chapter		Limited Access Highways, Scenic Highways and Virginia Byways, and Highways over Dams
Chapter		HOV Lanes and HOT Lanes
Chapter		Toll Facilities and Ferries
Chapter		Local Authority over Highways
	Article	
	Article	
	Article	
Chapter		Offenses Concerning Highways
Chapter		Woodrow Wilson Bridge and Tunnel Compact
Chapter		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		Eminent Domain, Highway Construction Contracts, Limitations on Suits and Contracts, and Highway Contractors' Association
	Article 1	Eminent Domain and Damages
	Article 2	Acquisition of Land Used as Cemeteries
	Article 3	Highway Construction Contracts, Limitations on Suits, and Adjustment of Claims
	Article 4	Highway Contractors' Association
Chapter		Outdoor Advertising in Sight of Public Highways
	Article 1	General Regulations
	Article 2	False and Misleading Signs
Chapter		Rail and Public Transportation
	Article 1	Rail Funds
	Article 2	Virginia - North Carolina Interstate High-Speed Rail Compact

**SUBTITLE III.
TRANSPORTATION FUNDING.**

Chapter		Transportation Funding
	Article 1	Virginia Transportation Infrastructure Bank
	Article 2	Highway Right-of-Way Fund
	Article 3	Transportation Partnership Opportunity Fund
	Article 4	Virginia Alternative Fuels Revolving Fund
	Article 5	Funds for Access Roads
	Article 6	Commonwealth of Virginia Federal Transportation Grant Anticipation Revenue Notes
Chapter		State Revenue Bond Act
Chapter		Public-Private Transportation Act of 1995 (§ 56-556 et seq.)

**SUBTITLE IV.
LOCAL & REGIONAL TRANSPORTATION.**

Chapter		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		Local Transportation Districts

Chapter		Transportation Districts within Certain Counties
Chapter		Chesapeake Bay Bridge and Tunnel District and Commission
Chapter		U.S. Route 58 Corridor Development Program
Chapter		Northern Virginia Transportation District Program
Chapter		Northern Virginia Transportation Authority (§ 15.2-4829 et seq.)
Chapter		Transportation District within the City of Charlottesville and the County of Albemarle
Chapter		Charlottesville-Albemarle Regional Transit Authority (§ 15.2-7022 et seq.)
Chapter		Richmond Metropolitan Authority (§ 15.2-7000 et seq.)
Chapter		Washington Metropolitan Area Transit Regulation Compact (§ 56-529 et seq.)
Chapter		Metropolitan Planning Organizations
Chapter		Virginia Coalfield Coalition Authority

Conventions for proposed Title 33.2. Highways and Other Surface Transportation Systems.

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.

The following conventions used throughout the Code are incorporated into proposed Title 33.2:

- **the Commonwealth:** Use in place of "this Commonwealth" and "Virginia."
- **county, city, or town:** List in order from largest to smallest.
- **governing body of a locality or local governing body:** Preferred over redundant "local governing body of a locality" or "local governing body of a county."
- **highway:** We conventionally use the term "highway" within the Highway Code. If a "road" is in the primary or secondary highway system, we call it a "**highway.**" If "road" refers to a private road, we use the term "**private road.**"
- **highway construction district:** Use full name in all references.
- **includes:** As defined in § 1-218, means including, but not limited to.
- **Interstate System:** Use initial capitalization; see definition below.
- **jurisdiction:** Means authority over something; do not use to mean a locality.
- **locality:** As defined in § 1-221, means a county, city, or town as the context may require.
- **nonlegislative citizen member:** As defined in § 1-225, means any natural person who is not a member of the General Assembly of Virginia; use in place of "citizen member."
- **town:** Because all towns are incorporated, strike "incorporated" in references to "incorporated town."
- **"and/or"** has been discontinued and will be replaced with "or" which does not mean it's use limits the available options or that they are mutually exclusive but that use of both or a combination is also an option. In certain contractual situations, regarding the PPTA, lists will be amended to include "or both" or "or any combination thereof" so as not to interfere with existing agreements.

Finally, many of the state highways are now part of the new definitions section, proposed § 33.2-100, with the following preferences:

- **Federal-aid systems** comprise the Interstate System AND the National Highway System. (See 23 U.S.C. § 103)
- **Interstate System** 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 CTB and is as defined in 23 USC § 103(c).
- **Primary state highway system** is the preferred name for what has also been referred to as the State Highway System, the primary system of state highways, and the state highway system of primary highways.
- **Secondary state highway system** is the preferred name for this highway system.
- **Systems of state highways** (as defined in § 1-251) means all systems of highways within the Commonwealth over which the CTB exercises jurisdiction and control.
- **Urban highway system** is a defined term.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27

CHAPTER X.

ABANDONMENT AND DISCONTINUANCE OF HIGHWAYS AND ROADS.

Drafting note: Articles 10 through 13 in Chapter 1 of existing Title 33.1 related to abandonment and discontinuance of highways and roads are relocated as a separate chapter, comprised of four articles. Throughout this chapter references to "local road authorities" have been stricken as obsolete and the accompanying references to "local governing bodies" are retained as current. References to "roads" in the primary or secondary state highway systems are updated to "highways" in keeping with changes made throughout this title. References to "public landings" are retained in a few specific instances where notice to the Department of Game and Inland Fisheries is required, otherwise such references are retained as "landings" so that they can be private or public. References to crossings refer to "rail crossings," "railway crossings," or "railroad crossings," so each crossing is now labeled as a "railroad crossing" for consistency and so that future expansion of light rail does not exclude conventional railroads. In existing Title 33.1, "roads," "public landings," and "crossings" are abandoned or discontinued. Therefore, in proposed Title 33.2, "highways," "roads," "public landings," and "railroad crossings" are abandoned or discontinued. These entities are discontinued as part of a Department-maintained highway system or abandoned as public highways, public landings, or public railroad crossings.

Article ~~10~~ 1.

Abandonment and Discontinuance of ~~Roads~~ Highways in Primary State Highway System.

Drafting note: Article 10 of Chapter 1 of existing Title 33.1 is relocated as Article 1 of this new chapter and a section providing chapter definitions is added.

§ 33.2-XXX. Definitions.

As used in this chapter, unless the context requires a different meaning:

"Abandonment" means that the public's right to use a public highway, public landing, or public crossing has been extinguished.

28 "Discontinuance" means that the Board has determined that a highway, landing, or
29 crossing no longer serves the public convenience warranting its maintenance at public expense;
30 it divests the Department from maintenance responsibilities. Discontinuance does not render a
31 highway, landing, or crossing unavailable for public use.

32 **Drafting note: Definitions are taken from the meanings attributed to these words**
33 **by this proposed chapter.**

34 § ~~33.1-144~~ 33.2-XXX. Discontinuance of ~~road~~ highway or ~~railway~~ railroad crossing as
35 part of ~~State Highway System~~ primary state highway system.

36 In any case in which a section of a ~~road~~ highway is deemed by the Commissioner of
37 Highways no longer necessary for the uses of the ~~State Highway System~~ primary state highway
38 system, or when, in ~~heretofore or hereafter~~ laying out, constructing, or maintaining sections of
39 ~~roads~~ highways in the ~~State Highway System~~ primary state highway system, a part of a ~~road~~
40 highway has been or is straightened or the location of a part ~~thereof of it is~~ altered and a section
41 of the ~~road~~ highway is deemed by the Commissioner of Highways no longer necessary for the
42 uses of the ~~State Highway System or primary state highway system~~, the Commissioner of
43 Highways, by and with the approval of the Board, may discontinue such section of the highway
44 as a part of the primary state highway system. In addition, in any case in which an existing
45 crossing by such ~~road~~ highway of the lines of a ~~railway~~ railroad company, or a crossing by the
46 lines of a ~~railway~~ railroad company of such ~~road~~ highway is deemed by the Commissioner of
47 Highways no longer necessary as a part of the ~~State Highway System~~ primary state highway
48 system, the Commissioner of Highways, by and with the approval of the ~~Commonwealth~~
49 ~~Transportation~~ Board, may discontinue such crossing as a part of the ~~State Highway System~~ the
50 ~~section of the road no longer deemed necessary for the uses of the State Highway System, or~~
51 ~~such crossing by the road of the lines of a railway company, or crossing by the lines of the~~
52 ~~railway company of the road, as the case may be, but~~ discontinuance primary state highway
53 system. Discontinuance under this section ~~shall~~ does not ~~operate as~~ constitute an abandonment

54 of such ~~road~~ highway as a public ~~road~~ highway or such crossing as a public crossing unless the
55 procedure ~~thereon~~ conforms to § ~~33.1-145~~ 33.2-XXX.

56 The opening of the new section of ~~road~~ highway by the Commissioner of Highways and
57 the entry by the ~~Commonwealth Transportation~~ Board upon its minutes of its approval of the
58 discontinuance of the section of the ~~road~~ highway or the railroad crossing, ~~as the case may be,~~
59 ~~and its approval thereof~~, shall be sufficient to constitute such discontinuance.

60 **Drafting note: Technical changes are made, including updating terminology for**
61 **"road" to "highway" and for "State Highway System" to "primary state highway**
62 **system."**

63 § ~~33.1-145~~ 33.2-XXX. Abandonment of ~~road~~ highway or railroad crossing in the
64 primary state highway system; procedure.

65 A. The Commissioner of Highways either on his own motion or ~~on~~ upon petition of any
66 interested landowner may ~~also~~ cause any section of a ~~road~~ highway of the ~~State Highway~~
67 System primary state highway system, or any crossing by such ~~road~~ highway of the lines of a
68 railway railroad company, or crossing by the lines of a ~~railway~~ railroad company of such ~~road~~
69 highway, to be abandoned altogether as a public ~~road~~ highway or as a public crossing, ~~as the~~
70 ~~case may be~~, by complying substantially with the ~~following~~ procedure: provided in this section.

71 B. The Commissioner of Highways or any interested landowner may file application
72 with the ~~Commonwealth Transportation~~ Board, setting out the section of the ~~road~~ highway or
73 the railroad crossing sought to be abandoned as a public ~~road~~ highway or public railroad
74 crossing. The ~~Commonwealth Transportation~~ Board, ~~upon the filing of such application~~, shall
75 give notice ~~thereof by (a) of the filing of the application (i) by~~ posting a notice of such
76 application at least three days before the first day of a regular term of the circuit court, at the
77 front door of the courthouse of the county in which the section of the ~~road~~ highway or railroad
78 crossing sought to be abandoned as a public ~~road~~ highway or public railroad crossing is located,
79 or ~~if it be~~ the section of the highway or the railroad crossing is located partly in two or more
80 counties, at the front door of the courthouse of each ~~of such counties~~ county, or ~~(b) (ii) by~~

81 ~~publication publishing a notice of such application~~ in two or more issues of ~~some a~~ newspaper
82 published in the county, or one of ~~them, and the counties in which the section of the highway or~~
83 ~~the crossing is located. The Board~~ shall also ~~mail send~~ by registered mail a notice of the
84 application to the ~~board of supervisors or other~~ governing body of the county or counties. If
85 such ~~road highway~~ or ~~railroad~~ crossing ~~be is~~ in a town ~~with a population~~ of 3,500 ~~population~~ or
86 less, ~~the Board shall give~~ notice ~~shall be given~~ to the governing body of the town in the same
87 manner as notice is required to be given to the governing body of the county in which the town
88 is located.

89 ~~Upon petition of C. If~~ one or more landowners in the county or counties affected by such
90 proposed abandonment, or ~~of the board of supervisors or other~~ governing body of ~~either of such~~
91 ~~counties, or upon petition of the governing body of any such a county or~~ town in which the ~~road~~
92 ~~highway~~ or ~~railroad~~ crossing is located, ~~filed files a petition~~ with the ~~Commonwealth~~
93 ~~Transportation~~ Board within ~~thirty 30~~ days after notice is posted or published and mailed as
94 ~~aforesaid, but not thereafter provided in this section,~~ the ~~Commonwealth Transportation~~ Board
95 ~~or a representative thereof~~ shall hold a public hearing in ~~the county or~~ one of the counties for ~~the~~
96 consideration of the application and shall give notice of the time and place of the hearing by
97 ~~publishing such information in~~ at least two ~~publications thereof issues~~ in ~~some a~~ newspaper
98 ~~published having general circulation~~ in the county, or one of ~~them, or having general circulation~~
99 ~~therein the counties~~ and ~~also mail by mailing~~ notice of the hearing to the ~~board of supervisors or~~
100 ~~other~~ governing body of the county or counties, and ~~if applicable~~ to the ~~town council governing~~
101 ~~body~~ of the town, in which the ~~road highway or railroad crossing~~ is located.

102 ~~D. If a petition be for a public hearing is~~ not filed ~~as aforesaid for a public hearing as~~
103 ~~provided in this section,~~ or if after a public hearing is held ~~a majority of~~ the ~~Commonwealth~~
104 ~~Transportation~~ Board, ~~or a majority thereof,~~ is satisfied that no public necessity exists for the
105 continuance of the section of ~~road highway~~ as a public ~~road, highway~~ or the ~~railroad~~ crossing as
106 a public ~~railroad~~ crossing, or that the welfare of the public would be served best by abandoning
107 the section of ~~road highway~~ or the ~~railroad~~ crossing, as a public ~~road highway~~ or ~~public railroad~~

108 crossing, ~~it the Board~~ shall ~~enter~~ (i) within four months ~~next after the thirty days of the 30-day~~
109 ~~period~~ during which notice was posted where no petition for a public hearing was filed, or (ii)
110 within four months ~~next~~ after the public hearing ~~enter~~ an order on its minutes abandoning the
111 section of ~~road highway~~ as a public ~~road highway~~ or the ~~railroad~~ crossing as a public ~~railroad~~
112 crossing, and ~~thereupon with that order~~ the section of ~~road highway~~ shall cease to be a public
113 ~~road highway~~, unless ~~taken over by~~ the ~~board of supervisors or other local~~ governing body ~~or~~
114 ~~local road authorities takes control~~ as ~~hereinafter~~ provided ~~in this article~~, or the ~~railroad~~ crossing
115 shall cease to be a public ~~railroad~~ crossing; ~~or if. If~~ the Board ~~be is~~ not so satisfied, it shall enter
116 ~~an order dismissing the application~~ within the ~~specified applicable~~ four months ~~an order~~
117 ~~dismissing the application provided in this subsection.~~

118 E. In considering the abandonment of any section of ~~road highway~~ under the provisions
119 of this section, due consideration shall be given to the historic value, if any, of such ~~road~~
120 ~~highway~~.

121 **Drafting note: The language is updated and technical changes are made.**
122 **References to "the Commonwealth Transportation Board or its representative" are**
123 **updated to remove the reference to a "representative" because reference to agencies or**
124 **Secretaries are understood to have actions carried out by designees or representatives.**

125 ~~§ 33.1-145.1 33.2-XXX.~~ Grade crossing closing and safety.

126 A. It is the public policy of the Commonwealth ~~of Virginia~~ to enhance public safety by
127 establishing safe ~~highway/rail highway-rail~~ grade crossings; ~~to~~ consolidate and close unsafe,
128 unnecessary, or redundant crossings; ~~and~~ to limit the establishment of new crossings. The
129 ~~Commonwealth Transportation~~ Board has the authority to close public ~~highway/rail highway-~~
130 ~~rail~~ grade crossings on ~~the system all systems~~ of ~~state~~ highways for which it has responsibility.

131 B. The Commissioner ~~of Highways~~ on his own motion or by request of any interested
132 landowner, railroad corporation, ~~county board of supervisors~~, or ~~other local~~ governing body may
133 petition the ~~Commonwealth Transportation~~ Board to close ~~the highway/rail a highway-rail~~ grade
134 crossing as a public ~~road crossing~~.

135 ~~The C. Prior to petitioning the Board to close a highway-rail grade crossing, the~~
136 Commissioner of Highways shall, ~~prior to petitioning the Commonwealth Transportation Board,~~
137 conduct a traffic engineering study to determine the validity of closing the crossing. The traffic
138 engineering study shall consider all factors, including ~~but not be limited to:~~ (i) the number of
139 freight and passenger trains passing the crossing and their timetable speeds, (ii) the distance to
140 an alternate crossing, (iii) the availability of alternate access, (iv) the crossing's accident history
141 during the five-year period immediately prior to the study, (v) the number of vehicles per day
142 using the crossing, (vi) the posted speed limit at the crossing, (vii) the type of warning devices
143 present at the crossing, (viii) the alignment of the roadway and railroad and their angle of
144 intersection, (ix) the number of trucks per day carrying hazardous materials through the
145 crossing, (x) the number of vehicles per day carrying passengers for hire through the crossing,
146 (xi) the number of school buses per day using the crossing, and (xii) the use of the crossing by
147 emergency vehicles.

148 D. The results of the traffic engineering study shall be made public in accordance with
149 the procedures set forth in § ~~33.1-145~~ 33.2-XXX. The Commissioner of Highways shall present
150 his findings and recommendations to the ~~Commonwealth Transportation~~ Board, and the Board
151 shall decide what actions to ~~be taken~~ take regarding the ~~crossing(s)~~ railroad crossing at issue.

152 **Drafting note: Technical changes are made, including removing the phrase "but**
153 **not be limited to" based on § 1-218, which states: "'Includes' means includes, but not**
154 **limited to." A reference to closing a "crossing" as a "public road" in subsection B is**
155 **changed to closing the "crossing" as a "public crossing" since it is unlikely that a crossing**
156 **is closed as a road.**

157 § ~~33.1-146~~ 33.2-XXX. Effect of ~~such~~ abandonment.

158 In the case of ~~the~~ abandonment of ~~any a~~ section of ~~road highway~~ or ~~any a~~ railroad
159 crossing ~~under the provisions of this article as a that is~~ part of the ~~State Highway System~~
160 primary state highway system under the provisions of this article, such section of ~~road highway~~
161 or such railroad crossing shall not thereafter be a public ~~road highway~~ or public railroad

162 crossing ~~as the case may be~~, unless conveyed to the county or town and subject to the authority
163 of the ~~board of supervisors or other local~~ governing body ~~or other local road authorities, or town~~
164 ~~council, as provided by law~~. In the case of proceedings for ~~the~~ abandonment of any section of
165 road highway, not including a railroad crossing situated less than one and one-half miles from
166 another public crossing over the same railroad, as a public road highway, under the provisions
167 of this article, the ~~board of supervisors or other local~~ governing body ~~or the local road~~
168 ~~authorities, as the case may be~~, insofar as such section of road highway is located within the
169 county of such ~~board of supervisors or local road authorities, governing body~~, shall have
170 authority to take over such section of road highway, not including the railroad crossing, and
171 maintain it as a public ~~road, as provided by law; provided, however~~ highway. However, the
172 ~~board of supervisors or other local~~ governing body ~~or local road authorities, as the case may be~~,
173 ~~shall have entered is required to enter upon its minutes~~ an order or resolution to that effect ~~upon~~
174 ~~its minutes~~ and ~~shall have given to give~~ notice thereof to the Commissioner of Highways within
175 ~~thirty 30~~ days from the posting or publishing and ~~the~~ mailing of the notice of the application for
176 the abandonment of such section of road highway as a public ~~road, highway~~ as ~~hereinbefore~~
177 provided in this article.

178 **Drafting note: Technical changes.**

179 § ~~33.1-147 33.2-XXX~~. Appeal to circuit court.

180 A. Any one or more of the ~~petitioners landowners who filed a petition, or the board of~~
181 ~~supervisors, or other~~ governing body of any county or ~~town council of the~~ town in which the
182 section of road highway or the railroad crossing is wholly or partly located, or the
183 Commissioner of Highways may within ~~thirty 30~~ days from the entry of the order by the
184 ~~Commonwealth Transportation~~ Board, ~~but not afterwards~~, appeal from the order to the circuit
185 court of the county in which the section of road highway or the railroad crossing, or the major
186 portion thereof, sought to be abandoned, under § ~~33.1-145, 33.2-XXX~~ is located. ~~Where~~ If the
187 ~~Commonwealth Transportation~~ Board fails to enter an order pursuant to § ~~33.1-145 33.2-XXX~~,
188 such person or persons named in this section ~~shall may appeal to the appropriate circuit court~~

189 within ~~thirty~~ 30 days from such ~~nonentry, but not afterwards, have a right of appeal to the~~
190 ~~appropriate circuit court failure~~. Such ~~appeals~~ appeal shall be ~~by petition~~ filed by petition in the
191 clerk's office of such court, setting out the order appealed from or the cause appealed from
192 where no order was entered and the grounds of such appeal. Upon the filing of such petition, the
193 clerk of the circuit court shall docket the appeal, giving it a preferred status, ~~and if~~. If the appeal
194 ~~be is~~ by any of the landowners who filed a petition with the ~~Commonwealth Transportation~~
195 Board for a public hearing ~~shall have~~, notice of such appeal shall be served upon the attorney for
196 the Commonwealth and the Commissioner of Highways, ~~and if~~. If the appeal ~~be is~~ by the ~~board~~
197 ~~of supervisors or other local~~ governing body or the Commissioner of Highways, notice ~~thereof~~
198 of such appeal shall be served upon the landowners who filed petition with the ~~Commonwealth~~
199 ~~Transportation~~ Board for a public hearing. No such appeal shall be tried by the court within ~~ten~~
200 10 days after notice is given, as ~~hereinabove~~ provided, in this section unless such notice ~~be is~~
201 waived. The circuit court shall hear the matter de novo with further right of appeal as provided
202 by ~~the general~~ law. Upon the hearing of the appeal, the court shall ascertain and by its order
203 determine whether public necessity exists for the continuance of the section of ~~road highway~~ or
204 the railroad crossing as a public ~~road highway~~ or public railroad crossing; or whether the
205 welfare of the public will be served best by abandoning the section of the ~~road highway~~ or the
206 ~~said railroad~~ crossing as a public ~~road highway~~ or public railroad crossing and shall enter its
207 order accordingly. The clerk of the court shall certify a copy of the order of the court to the
208 ~~Commonwealth Transportation~~ Board.

209 B. Upon any such appeal, if it ~~shall appear~~ appears to the court that by the abandonment
210 of such section of ~~road highway~~ or such railroad crossing as a public ~~road highway~~ or public
211 railroad crossing any party to such appeal would be deprived of access to a public ~~road highway~~,
212 the court may cause the ~~railway railroad~~ company ~~and or~~ the ~~board of supervisors or other local~~
213 governing body, ~~or either~~, to be made parties to the proceedings, if not already parties, and may
214 enter such orders as seem ~~to it~~ just and proper for keeping open such section of ~~road highway~~ or

215 such railroad crossing for the benefit of such party or parties ~~as would by such abandonment be~~
216 ~~deprived of access to a public road.~~

217 C. The provisions of this section shall not apply to any discontinuance of a portion of the
218 ~~State Highway System~~ primary state highway system under § ~~33.1-144~~ 33.2-XXX.

219 **Drafting note: Technical changes.**

220 § ~~33.1-148~~ 33.2-XXX. Alternative procedure for abandonment of old ~~road~~ highway or
221 railroad crossing to extent of alteration.

222 The Commissioner of Highways may declare any ~~road~~ highway in the ~~State Highway~~
223 ~~System~~ primary state highway system or any ~~road~~ highway in the ~~State Highway System~~
224 primary state highway system containing a ~~railway~~ highway-rail grade crossing
225 abandoned when (i) it has been or is altered and a new ~~road, which~~ highway that serves the same
226 ~~citizens users~~ as the old, ~~road~~ highway is constructed ~~in lieu thereof as a replacement~~ and
227 approved by the Commissioner of Highways or (ii) the Chief Engineer of the Department ~~of~~
228 ~~Transportation~~ recommends that it is appropriate in connection with the completion of a
229 construction or maintenance project. The old ~~road and/or the~~ highway or the public crossing
230 may be abandoned to the extent of such alteration, but no further, by the entry by the
231 Commissioner of Highways of such abandonment upon the records of the Department ~~of~~
232 ~~Transportation~~.

233 **Drafting note: Technical changes.**

234 § ~~33.1-149~~ 33.2-XXX. Conveying sections of ~~roads~~ highways or other property no
235 longer necessary.

236 A. Whenever a ~~road~~ highway or a ~~portion thereof~~ section of a highway has been
237 abandoned in accordance with the provisions of § ~~33.1-145~~ 33.2-XXX or ~~33.1-148~~ 33.2-XXX
238 and is deemed by the Commissioner of Highways no longer necessary for the uses of the ~~State~~
239 ~~Highway System~~ primary state highway system, the Commissioner of Highways shall so certify
240 in writing and ~~is authorized to may~~ execute, in the name of the Commonwealth, a deed or deeds
241 conveying such section or sections of ~~road~~ highway, either for ~~a~~ consideration or in exchange

242 for other lands that may be necessary for the uses of the ~~State Highway System~~ primary state
243 highway system. ~~But before~~ Before any such deed either for the sale or exchange of land is
244 executed conveying any section of a highway ~~upon or~~ along which any person ~~or persons reside~~
245 resides, ~~notice shall be given by~~ the Commissioner of Highways shall give notice to the
246 governing ~~body~~ bodies of the county and town and to the owner or owners of the land upon
247 which such person ~~or persons reside~~ resides of the intention to convey the section of ~~road~~
248 highway and if, If after a reasonable notice of such intention, any such landowner or local
249 governing body so requests, a hearing shall be ordered by the Commissioner of Highways as
250 ~~now~~ provided by law in this article. If, upon such hearing, it is ~~made to appear~~ determined that
251 such section of ~~road~~ highway should be left open for the reasonable convenience of such
252 landowner or the public, then such section of ~~road~~ highway shall not be conveyed. ~~But no~~ No
253 such hearing shall be held if such ~~road~~ highway was abandoned under § ~~33.1-145~~ 33.2-XXX.

254 B. When real estate acquired incidental to the construction, reconstruction, alteration,
255 maintenance, and repair of the ~~State Highway System~~ which primary state highway system that
256 does not constitute a section of the public ~~road~~, highway is deemed by the Commissioner of
257 Highways no longer necessary for the uses of the ~~State Highway System~~ primary state highway
258 system, the Commissioner of Highways shall so certify in writing and ~~is authorized to~~ may
259 execute, in the name of the Commonwealth, a deed or deeds conveying such real estate, interest
260 therein, or any portion thereof, either for ~~a~~ consideration or in exchange for other lands that may
261 be necessary for the uses of the ~~State Highway System~~ primary state highway system.

262 C. Upon petition of a local governing body, the ~~Commonwealth Transportation~~ Board
263 may transfer real estate acquired incidental to the construction, reconstruction, alteration,
264 maintenance, or repair of the ~~State Highway System~~ which primary state highway system that
265 constitutes a section of public ~~road~~, highway to the local governing body, and upon such
266 transfer, such section of ~~road~~ highway shall cease being a part of the ~~State Highway System~~
267 primary state highway system.

268 **Drafting note: Technical changes.**

269 Article ~~11~~ 2.

270 Abandonment and Discontinuance of ~~Roads~~ Highways in Secondary State Highway System.

271 **Drafting note: Article 11 of existing Chapter 1 of Title 33.1 is relocated to this**
272 **proposed Chapter XXX as Article 2.**

273 § ~~33.1-150~~ 33.2-XXX. Discontinuance of ~~road~~ highway, ~~public~~ landing, or ~~railway~~
274 railroad crossing as part of secondary state highway system; procedures.

275 A. For the purposes of this article, "landing" means a place on a river or other navigable
276 body of water for loading or unloading goods or for the reception and delivery of travelers; the
277 terminus of a highway on a river or other navigable body of water for loading or unloading
278 goods or for the reception and delivery of travelers; or a place for loading or unloading
279 watercraft, but not a harbor for watercraft.

280 ~~On~~ B. Upon petition of the governing body of any county in which a ~~road~~ highway,
281 ~~public~~ landing, or railroad crossing is located or upon petition of the ~~town council~~ governing
282 body of a town ~~having with~~ a population of 3,500 or less, or on its own motion, the Board may
283 discontinue any ~~road~~ highway, ~~public~~ landing, or railroad crossing in the secondary state
284 highway system as a part thereof in any case in which the Board deems such ~~road~~ highway,
285 ~~public~~ landing, or railroad crossing not required for public convenience. If the Board on its own
286 motion desires to discontinue any such ~~road~~ highway, ~~public~~ landing, or railroad crossing,
287 ~~notice the Board~~ shall ~~be given~~ give notice to the affected governing body ~~of the county and~~
288 ~~town~~ at least ~~thirty~~ 30 days prior to ~~any such~~ discontinuance ~~of a road or crossing under this~~
289 ~~section~~. In addition, in cases where only a ~~road~~ highway or ~~public~~ landing or the maintenance
290 thereof is to be discontinued, the Board shall give notice of such intention ~~shall be given~~ to the
291 public; at least ~~thirty~~ 30 days prior to such action by ~~one publication~~ publishing such notice in at
292 least one issue in a newspaper having general circulation in the county in which the affected
293 road highway or landing is situated and, where practicable, by a registered letter to each
294 landowner whose property abuts the section of ~~road~~ highway or ~~public~~ landing to be
295 discontinued; ~~for~~ For the purposes of this section, the ~~representative of the~~ Board ~~charged with~~

296 ~~giving notice~~ may, where practicable, rely upon the tax records of the county to determine the
297 names and addresses of such owners. These additional notice provisions shall not be required in
298 cases where the section of ~~road highway~~ to be discontinued has been replaced by a new ~~road~~
299 ~~highway~~ serving the same ~~citizens users~~. If the governing body of any county or town requests a
300 hearing, or upon petition of any landowner whose property abuts a ~~road highway~~ or ~~public~~
301 ~~landing which that~~ is to be discontinued, the Board, ~~or a representative thereof~~, shall hold a
302 hearing in the county in which the ~~road highway, public~~ landing, or ~~railroad~~ crossing is located
303 in order to ascertain whether or not such ~~road highway, public~~ landing, or ~~railroad~~ crossing
304 should be discontinued. From the finding of the Board, an appeal shall lie to the circuit court of
305 the county in which such ~~road highway, public~~ landing, or ~~railroad~~ crossing is located and the
306 procedure thereon shall conform to the procedure prescribed in § ~~33.1-147 33.2-XXX~~. The
307 jurisdiction and procedure for abandonment of ~~roads highways~~ and ~~public~~ landings discontinued
308 as parts of the secondary ~~state highway~~ system in accordance with this article shall remain in the
309 local ~~road authorities governing bodies~~.

310 ~~B. C.~~ In cases where the Chief Engineer of the Department ~~of Transportation~~
311 recommends that it is appropriate in connection with the completion of a construction or
312 maintenance project to discontinue any ~~road highway, public~~ landing, or ~~railroad~~ crossing in the
313 secondary ~~state highway~~ system, the Commissioner of Highways may discontinue such ~~road~~
314 ~~highway, public~~ landing, or ~~railroad~~ crossing as he deems proper. The entry by the
315 Commissioner ~~of Highways~~ upon the records of the Department ~~of Transportation~~ of the
316 discontinuance shall be sufficient to constitute such discontinuance.

317 **Drafting note: Technical changes. The definition of "landing" is moved here from**
318 **existing § 33.1-151 in order to be set out at the beginning of the article to which the**
319 **definition applies. The definition has been updated for consistency and the term**
320 **"watercraft" has been substituted for "boats." References to "the Commonwealth**
321 **Transportation Board or its representative" are updated to remove the reference to a**

322 "representative" because reference to agencies or Secretaries are understood to have
323 actions carried out by designees or representatives.

324 § ~~33.1-151~~ 33.2-XXX. Abandonment of ~~road highway~~, landing, or railroad crossing;
325 procedure.

326 A. The governing body of any county on its own motion or upon petition of any
327 interested landowner may cause any section of the secondary state highway system ~~of highways~~,
328 or any crossing by the ~~road highway~~ of the lines of a ~~railway railroad~~ company, or crossing by
329 the lines of a ~~railway railroad~~ company of the ~~road highway~~, deemed by it to be no longer
330 necessary for the uses of the secondary state highway system ~~of highways~~, to be abandoned
331 altogether as a public ~~road highway~~, a public landing, or ~~as a public~~ railroad crossing, ~~as the~~
332 ~~case may be~~, by complying substantially with the ~~following~~ procedure: provided in this section.

333 B. The governing body of the county shall give notice of its intention to abandon any
334 such ~~road highway~~, landing, or railroad crossing ~~by (a) (i) by~~ posting a notice of such
335 ~~application intention~~ at least three days before the first day of a regular term of the circuit court,
336 at the front door of the courthouse of the county in which the section of the ~~road highway~~,
337 landing, or railroad crossing sought to be abandoned as a public ~~road highway~~, public landing,
338 or public railroad crossing is located, or ~~(b) (ii) by~~ posting notice in at least three places on and
339 along the ~~road highway~~, landing, or railroad crossing sought to be abandoned for at least ~~thirty~~
340 30 days, and, in either case, by ~~publication publishing notice of its intention~~ in two or more
341 issues of ~~some a~~ newspaper having general circulation in the county, ~~and the~~. In addition, the
342 governing body of the county shall ~~also~~ give notice of its intention to abandon such ~~road~~
343 highway, landing, or railroad crossing to the ~~Commonwealth Transportation~~ Board or the
344 Commissioner ~~thereof of Highways~~. In any case in which the ~~road highway~~, landing, or railroad
345 crossing proposed to be abandoned lies in two or more counties, the governing bodies ~~concerned~~
346 of such counties shall not abandon such ~~road highway~~, landing, or railroad crossing unless and
347 until ~~the all affected~~ governing bodies ~~of the other county or counties in which such road,~~
348 ~~landing, or crossing is located~~ agree ~~thereto; the~~. The procedure in such cases shall conform

349 mutatis mutandis to the procedure prescribed for the abandonment of a ~~road~~ highway, landing,
350 or railroad crossing located entirely within a county.

351 When the governing body of ~~the a~~ county gives notice of intention to abandon ~~any such~~
352 a public landing, the governing body shall also give such notice to the Department of Game and
353 Inland Fisheries.

354 ~~Upon petition of C. If~~ one or more landowners in the county whose property abuts ~~on~~ the
355 ~~road~~ highway, landing, or railroad crossing proposed to be abandoned, or, if only a section of a
356 ~~road~~ highway, landing, or railroad crossing is proposed to be abandoned, whose property abuts
357 ~~on~~ such section ~~of the road, landing, or crossing,~~ or ~~of~~ the ~~Commonwealth Transportation~~ Board
358 or ~~of~~ the Department of Game and Inland Fisheries, in the case of a public landing, ~~filed~~ files a
359 petition with the governing body of the county within ~~thirty~~ 30 days after notice is posted and
360 published as ~~aforesaid but not thereafter provided in this section,~~ the governing body of the
361 county shall hold a public hearing on the proposed abandonment and shall give notice of the
362 time and place of the hearing by publishing such information in at least two ~~publications thereof~~
363 issues in ~~some a~~ newspaper having general circulation in the county and shall also give notice
364 ~~thereof~~ to the ~~Commonwealth Transportation~~ Board or, if a public landing is sought to be
365 abandoned, to the Department of Game and Inland Fisheries.

366 D. If a petition ~~be for a public hearing is~~ not filed ~~as aforesaid for a public hearing as~~
367 provided in this section, or if after a public hearing is held, the governing body of the county is
368 satisfied that no public necessity exists for the continuance of the section of the secondary ~~road~~
369 highway as a public ~~road, highway~~ or the railroad crossing as a public railroad crossing, or the
370 landing as a public landing, or that the safety and welfare of the public would be served best by
371 abandoning the section of ~~road~~ highway, ~~the~~ landing, or the railroad crossing, as a public ~~road~~
372 highway, public landing, or public railroad crossing, ~~it the governing body of the county~~ shall
373 enter (i) within four months ~~next after the thirty days of the 30-day period~~ during which notice
374 was posted where no petition for a public hearing was filed, or (ii) within four months ~~next~~ after
375 the public hearing enter an order on its minutes abandoning the section of ~~road~~ highway as a

376 public ~~road~~ highway, or the landing as a public landing, or the railroad crossing as a public
377 railroad crossing ~~as the case may be~~, and ~~thereupon with that order~~ the section of ~~road~~ highway
378 shall cease to be a public ~~road~~ highway, ~~or~~ a public landing, or a public railroad crossing, ~~as the~~
379 ~~case may be, or if. If~~ the governing body ~~be is~~ not so satisfied, it shall dismiss the application
380 within the ~~specified applicable~~ four months provided in this subsection.

381 E. A finding by the governing body of a county that a section of the secondary state
382 highway system ~~of highways~~ is no longer necessary for the uses of the secondary state highway
383 system may be made if the following conditions exist:

384 A.1. The ~~road~~ highway is located within a residence district as ~~the latter is~~ defined in §
385 46.2-100;

386 B.2. The residence district is located within a county having a density of population
387 exceeding 1,000 per square mile;

388 C.3. Continued operation of the section of ~~road~~ highway in question constitutes a threat
389 to the public safety and welfare; and,

390 D.4. Alternate routes for use after abandonment of the ~~road~~ highway are readily
391 available.

392 F. In considering the abandonment of any section of ~~road~~ highway under the provisions
393 of this section, due consideration shall be given to the historic value, if any, of such ~~road~~
394 highway.

395 G. Any order of abandonment issued in compliance with this section shall give rise in
396 subsequent proceedings, if any, to a presumption of adequate justification for the abandonment.

397 ~~For the purposes of §§ 33.1-150 through 33.1-154, "landing" shall mean a place on a~~
398 ~~river or other navigable body of water for loading or unloading goods, or for the reception and~~
399 ~~delivery of passengers; the terminus of a road on a river or other navigable water, for the use of~~
400 ~~travelers and the loading and unloading of goods; a place for loading or unloading boats, but not~~
401 ~~a harbor for them.~~

402 ~~However, no H.~~ No public landing shall be abandoned unless the Department of Game
403 and Inland Fisheries shall, by resolution, concur in such abandonment.

404 **Drafting note: Technical changes. The definition of "landing" found in this section**
405 **is moved to the beginning of the section replacing existing § 33.1-150, the first of the**
406 **consecutive sections to which the definition applies.**

407 § ~~33.1-152~~ 33.2-XXX. Appeal to circuit court.

408 Any one or more of the landowners whose property abuts ~~on~~ the ~~road~~ highway, landing,
409 or railroad crossing proposed to be abandoned, or, if only a section of a ~~road~~ highway, landing,
410 or railroad crossing is proposed to be abandoned, whose property abuts ~~on~~ such section of the
411 ~~road~~ highway, landing, or railroad crossing, and who petitioned for a public hearing under §
412 ~~33.1-151, 33.2-XXX~~ or the Commissioner of Highways, or, if a public landing is ~~involved~~
413 ~~proposed to be abandoned~~, the Director of the Department of Game and Inland Fisheries, may
414 within ~~thirty~~ 30 days from the entry of the order by the governing body, ~~but not afterwards, of~~
415 the county appeal from the order to the circuit court of the county in which the section of ~~road~~
416 highway, the public landing, or the railroad crossing sought to be abandoned under § 33.2-XXX
417 [§ 33.1-151] is located. Where the governing body of the county fails to enter an order pursuant
418 to § ~~33.1-151 33.2-XXX~~, such person or persons named in this section shall within ~~thirty~~ 30
419 days from such ~~nonentry, but not afterwards, failure~~ have a right of appeal to the appropriate
420 circuit court. Such ~~appeals~~ appeal shall be ~~by petition~~ filed by petition in the clerk's office of
421 such court, setting out the order appealed from or the cause appealed from where no order was
422 entered and the grounds of such appeal. Upon the filing of such petition, the clerk of the circuit
423 court shall docket the appeal, giving it a preferred status, and if the appeal ~~be is~~ by any of the
424 landowners who filed a petition with the governing body of the county for a public hearing ~~shall~~
425 ~~have,~~ notice of such appeal shall be served upon each member of the governing body of the
426 county pursuant to § 8.01-300 and either the Commissioner of Highways or the Director of the
427 Department of Game and Inland Fisheries, as applicable, and if the appeal ~~be is~~ by either the
428 Commissioner of Highways or the Director of the Department of Game and Inland Fisheries,

429 notice ~~thereof of such appeal~~ shall be served upon the governing body of the county and the
430 landowners who filed petition with the governing body of the county for a public hearing. No
431 such appeal shall be tried by the court within ~~ten 10~~ days after notice is given, as ~~hereinabove~~
432 provided, in this section unless such notice ~~be is~~ waived. The circuit court shall decide the
433 appeal based upon the record and upon such other evidence as may be presented by the parties.
434 Upon the hearing of the appeal, the court shall ascertain and by its order determine whether
435 adequate justification exists for the decision of the governing body of the county that public
436 necessity exists for the continuance of the section of ~~road highway, public~~ landing, or the
437 railroad crossing as a public ~~road highway~~, public landing, or public railroad crossing; or ~~that~~
438 whether the welfare of the public will be served best by abandoning the section of the ~~road~~
439 highway, public landing, or the ~~said railroad~~ crossing as a public ~~road highway, public landing,~~
440 or public railroad crossing and shall enter its order accordingly.

441 Upon any such appeal, if it ~~shall appear~~ appears to the court that by the abandonment of
442 such section of ~~road highway, public~~ landing, or ~~such railroad~~ crossing as a public ~~road~~
443 highway, public landing, or public railroad crossing any party to such appeal would be deprived
444 of access to a public ~~road highway~~, the court may cause the ~~railway railroad~~ company and the
445 governing body of the county, or either, to be made parties to the proceedings, if not already
446 parties, and may enter such orders as seem ~~to it~~ just and proper for keeping open such section of
447 road highway, public landing, or ~~such railroad~~ crossing for the benefit of such party or parties ~~as~~
448 ~~would by such abandonment be deprived of access to a public road.~~

449 **Drafting note: Technical changes.**

450 § ~~33.1-152.1 33.2-XXX~~. Permissible uses by counties of certain discontinued secondary
451 ~~system~~ highways.

452 Whenever a secondary ~~system~~ highway is discontinued under § ~~33.1-150 33.2-XXX~~, the
453 highway shall continue to be available for use by the public as a road highway, unless it has
454 been abandoned pursuant to this ~~title chapter~~ or its use has been modified by an ordinance
455 adopted pursuant to this section. The ~~county~~ governing body of the county may by ordinance

456 provide for use of a discontinued highway for any of the following purposes: (i) hiking or
457 bicycle trails and paths or other nonvehicular transportation and recreation—~~purposes~~; (ii)
458 greenway corridors for resource protection and biodiversity enhancement, with or without
459 public ingress and egress; and (iii) access to historic, cultural, and educational sites.

460 **Drafting note: Technical changes.**

461 ~~§ 33.1-153. Effect of abandonment.~~

462 ~~In case of the abandonment of any section of road, public landing, or any crossing under~~
463 ~~the provisions of this article as a part of the secondary system of highways, such section of road,~~
464 ~~public landing, or such crossing, shall not remain a public road, public landing, or crossing.~~

465 **Drafting note: This section is deleted as unnecessary and repetitive of the intentions**
466 **of this chapter.**

467 ~~§ 33.1-155~~ 33.2-XXX. Alternative procedure for abandonment of old ~~road~~ highway or
468 crossing to extent of alteration.

469 The Commissioner of Highways may declare any ~~road~~ highway in the secondary state
470 highway system or any ~~road~~ highway in the secondary state highway system containing a
471 ~~railway-highway~~ highway-rail grade crossing abandoned when (i) it has been or is altered and a
472 new ~~road~~ which highway that serves the same ~~citizens~~ users as the old ~~road~~ highway is
473 constructed ~~in lieu thereof as a replacement~~ and approved by the Commissioner of Highways or
474 (ii) the Chief Engineer of the Department ~~of Transportation~~ recommends that it is appropriate in
475 connection with the completion of a construction or maintenance project. The old ~~road and/or~~
476 highway or the public crossing may be abandoned to the extent of such alteration, but no
477 further, by the entry by the Commissioner of Highways of such abandonment upon the records
478 of the Department ~~of Transportation~~.

479 **Drafting note: Technical changes are made. This section is relocated before existing**
480 **§ 33.1-154 to mirror the order of the previous article and because § 33.1-154 refers to §**
481 **33.1-155.**

482 § ~~33.1-154~~ 33.2-XXX. Conveying sections of ~~roads~~ highways, ~~public~~ landings, or other
483 property no longer necessary.

484 A. Whenever a secondary ~~road~~ highway or ~~public~~ landing has been abandoned in
485 accordance with the provisions of § ~~33.1-151~~ 33.2-XXX or ~~33.1-152~~ 33.2-XXX or in
486 accordance with § ~~33.1-155~~, 33.2-XXX and its use is no longer deemed necessary by the
487 Commissioner of Highways, the Commissioner of Highways shall so certify in writing to the
488 governing body of the county in which such ~~road~~ highway or ~~public~~ landing is located, ~~such~~
489 ~~facts~~, and the governing body of the county or the Commissioner of Highways shall ~~thereupon~~
490 ~~then~~ be authorized to execute, in the name of the Commonwealth or the county, ~~as the case may~~
491 ~~be~~, a deed or deeds conveying such section or sections, of highway or ~~public~~ such landing,
492 either for ~~a~~ consideration or in exchange for other lands that may be necessary for the uses of
493 the secondary state highway system. ~~But before~~ Before any such deed either for the sale or
494 exchange of land is executed conveying any section of a ~~road~~ highway or ~~public~~ landing ~~upon or~~
495 along which any person ~~or persons reside~~ resides, notice shall be given by the Commissioner of
496 Highways or the governing body of the county, ~~as the case may be~~, and to the owner or owners
497 of the land upon which such person ~~or persons reside~~ resides of the intention to convey the
498 section of ~~road~~ highway or ~~public~~ the landing and if, after a reasonable notice of such intention,
499 any such landowner so requests, a hearing shall be ordered by the Commissioner of Highways
500 or governing body, ~~as the case may be~~, of the county ~~as now~~ provided ~~by law in this article~~. If,
501 upon such hearing, it is ~~made to appear determined~~ that such section of ~~road~~ highway or ~~public~~
502 landing should be kept open for the reasonable convenience of such landowner, or the public,
503 then such section of ~~road~~ highway or ~~public~~ landing shall not be conveyed.

504 Any such conveyance by the governing body of a county shall not be subject to § 15.2-
505 1800.

506 B. When real estate ~~heretofore or hereafter~~ acquired by the Commonwealth incidental to
507 the construction, reconstruction, alteration, maintenance, and repair of the secondary state
508 highway system ~~of state highways which~~ does not constitute a section of ~~the a~~ public ~~road~~

509 ~~highway and~~ is deemed by the Commissioner of Highways no longer necessary for the uses of
510 the secondary state highway system ~~of state highways~~, the Commissioner of Highways shall so
511 certify in writing and is authorized to execute, in the name of the Commonwealth, a deed or
512 deeds conveying such real estate, interest therein, or any portion thereof, either for ~~a~~
513 consideration or in exchange for other lands that may be necessary for the uses of the secondary
514 state highway system ~~of state highways~~.

515 C. Upon petition of a local governing body, the ~~Commonwealth Transportation~~ Board
516 may transfer real estate acquired incidental to the construction, reconstruction, alteration,
517 maintenance, or repair of the ~~Secondary System of State Highways which secondary state~~
518 highway system that constitutes a section of public ~~road, highway~~ to the local governing body,
519 and upon such transfer, such section of ~~road highway~~ shall cease being a part of the ~~Secondary~~
520 System of State Highways secondary state highway system.

521 Any such conveyance shall ~~have the be subject to~~ approval of the Board by resolution
522 and recorded in the minutes ~~of a meeting~~ of the Board.

523 **Drafting note: Technical changes.**

524 Article ~~12~~ 3.

525 Abandonment of Roads Not in Primary or Secondary State Highway System ~~or Secondary~~
526 System.

527 **Drafting note: Article 12 of existing Chapter 1 of Title 33.1 is relocated to this**
528 **proposed Chapter XXX as Article 3. The use of the term "road" is retained here since**
529 **these are not in a highway system.**

530 § ~~33.1-156 33.2-XXX~~. ~~Application of article County roads not part of primary or~~
531 secondary state highway system; "road" defined definitions.

532 A. The provisions of this article shall apply mutatis mutandis to county roads maintained
533 by a county and not part of the secondary state highway system, and to roads dedicated to ~~the~~
534 public use but ~~which that~~ are not ~~parts part~~ of the ~~State Highway System, primary~~ or ~~the~~
535 secondary state highway system.

536 ~~The term "road" shall include~~ B. For the purposes of this article:
537 "Governing body" means the governing body of a county.
538 "Road" includes streets and alleys ~~in case of dedication~~ dedicated to ~~the~~ public use and
539 ~~shall likewise include an any~~ existing crossing by the lines of a ~~railway~~ railroad company of
540 such road and a railroad crossing by such road of the lines of a ~~railway~~ railroad company.

541 **Drafting note: The definition of "governing body" is relocated to this section from**
542 **existing § 33.1-157 for the purposes of this article and technical changes are made.**

543 ~~§ 33.1-157~~ 33.2-XXX. Abandonment of certain roads and ~~railway~~ railroad crossings by
544 governing body ~~of county~~.

545 A. When a section of a road not in the secondary state highway system, ~~or an existing~~
546 ~~crossing by such road of the lines of a railroad company or a crossing by the lines of a railroad~~
547 ~~company of such road,~~ is deemed by the governing body of the county, ~~hereinafter in this article~~
548 ~~referred to as governing body, in which it is located to be~~ no longer necessary for public use, ~~or~~
549 ~~an existing crossing by such road of the lines of a railway company, or a crossing by the lines of~~
550 ~~a railway company of such road, is deemed by such governing body no longer necessary for~~
551 ~~public use,~~ the governing body ~~by proceeding as hereinafter prescribed~~ may abandon ~~the such~~
552 ~~section of the road no longer deemed necessary for public use,~~ or such crossing ~~by the road of~~
553 ~~the lines of a railway company, or crossing by the lines of the railway company of the road, as~~
554 ~~the case may be by proceeding as prescribed in this article.~~

555 B. In considering the abandonment of any section of road under the provisions of this
556 section, due consideration shall be given to the historic value, if any, of such road.

557 **Drafting note: Technical changes.**

558 ~~§ 33.1-158~~ 33.2-XXX. Notice of proposed abandonment.

559 In the case of a proposed abandonment of a road ~~referred to in this article~~ not part of the
560 primary or secondary state highway system, the governing body shall give at least ~~thirty~~ 30
561 days' notice of its intention ~~so~~ to do so by posting notice at the front door of the courthouse, by
562 posting notices on at least three places along and ~~on~~ visible from the road proposed to be

563 abandoned, and by ~~publication of intention so to do~~ publishing notice in at least ~~twice~~ two issues
564 in a newspaper having general circulation in the county. All such notices shall state the time and
565 place at which the governing body will meet to consider the abandonment of such road.

566 **Drafting note: Technical changes.**

567 § ~~33.1-159~~ 33.2-XXX. Petition for abandonment.

568 Any person desiring to have ~~any such a~~ road abandoned may petition the governing body
569 ~~therefor and shall file with it and in the clerk's office of the county to abandon such road by~~
570 filing the petition and a reasonably accurate plat and description of the section proposed to be
571 abandoned with the governing body and in the clerk's office of the county. The governing body
572 may ~~then~~ proceed to have such road abandoned as ~~above~~ provided in this article, but the
573 expenses ~~thereof~~ shall be borne by the petitioner.

574 **Drafting note: Technical changes.**

575 § ~~33.1-160~~ 33.2-XXX. Petition for public hearing on proposed abandonment.

576 ~~Upon petition of~~ If one or more landowners ~~in the county~~ affected by ~~such a~~ proposed
577 abandonment ~~filed~~ files a petition for a public hearing with the governing body within ~~thirty~~ 30
578 days after notice is posted and published, ~~as aforesaid, but not thereafter~~, the governing body
579 shall hold a public hearing in the county for the consideration of the ~~proposal~~ proposed
580 abandonment.

581 **Drafting note: Technical changes.**

582 § ~~33.1-161~~ 33.2-XXX. Action of governing body.

583 If a petition ~~be for a public hearing is~~ not filed ~~as aforesaid for a public hearing as~~
584 provided in § 33.2-XXX [preceding section], or if after a public hearing is held, the governing
585 body is satisfied that no public necessity exists for the continuance of the section of road as a
586 public road, or the railroad crossing as a public railroad crossing, or that the welfare of the
587 public would be served best by abandoning the section of road or the railroad crossing, as a
588 public road or public railroad crossing, ~~it~~ the governing body shall ~~enter~~ (i) within four months
589 ~~next after the thirty days of the 30-day period~~ during which notice was posted where no petition

590 for a public hearing was filed, or (ii) within four months ~~next~~ after the public hearing enter an
591 order on its minutes abandoning the section of road as a public road or the railroad crossing as a
592 public railroad crossing, and ~~thereupon with that order~~ the section of road shall cease to be a
593 public road ~~or if. If~~ the governing body be is not so satisfied, it shall enter an order dismissing
594 the application within the ~~specified applicable~~ four months ~~an order dismissing the application~~
595 provided in this section.

596 **Drafting note: Technical changes.**

597 § ~~33.1-162~~ 33.2-XXX. Appeal to circuit court.

598 Any one or more of the ~~petitioners~~ landowners who filed a petition or the governing
599 body, may within ~~thirty~~ 30 days from the entry of the ~~action order~~ of the governing body on the
600 proposal ~~but not afterwards, may~~ appeal from the action of the governing body to the circuit
601 court of the county. Where the governing body fails to enter an order pursuant to § ~~33.1-161~~
602 33.2-XXX, such person or persons named in this section shall within ~~thirty~~ 30 days from such
603 ~~nonentry, but not afterwards, failure~~ have a right of appeal to the appropriate circuit court. Such
604 ~~appeals appeal~~ shall be ~~by petition~~ filed by petition in the clerk's office of such court, setting out
605 the action or inaction appealed from and the grounds for appeal. Upon the filing of such
606 petition, the clerk of the circuit court shall docket the appeal, giving it a preferred status, and if
607 the appeal ~~be is~~ by any of the landowners who filed a petition with the governing body for a
608 public hearing ~~shall have~~, notice of such appeal shall be served upon the attorney for the
609 Commonwealth and the governing body. No such appeal shall be tried by the court within ~~ten~~
610 10 days after notice is given, as ~~hereinabove~~ provided, in this section unless such notice ~~be is~~
611 waived. The circuit court shall hear the matter de novo with further right of appeal as provided
612 by ~~the general~~ law. The court may appoint viewers to make such investigation and findings as
613 the court requires of them. Upon the hearing of the appeal, the court shall ascertain and by its
614 order determine whether public necessity exists for the continuance of the section of road or the
615 railroad crossing as a public road or public railroad crossing, or whether the welfare of the

616 public will be served best by abandoning the section of the road or the railroad crossing as a
617 public road or public railroad crossing and shall enter its order accordingly.

618 Upon any such appeal, if it ~~shall appear~~ appears to the court that by the abandonment of
619 such section of road or such railroad crossing as a public road or public railroad crossing any
620 party to such appeal would be deprived of access to a public road, the court may cause the
621 railway railroad company and the governing body, or either, to be made parties to the
622 proceedings, if not already parties, and may enter such orders as seem ~~to it~~ just and proper for
623 keeping open such section of road or such railroad crossing for the benefit of such party or
624 parties ~~as would by such abandonment be deprived of access to a public road.~~

625 **Drafting note: Technical changes.**

626 § ~~33.1-163~~ 33.2-XXX. Effect of abandonment.

627 In the case of the abandonment of any section of road or any railroad crossing under the
628 provisions of this article, such section of road or such crossing shall cease to be a public road or
629 public railroad crossing ~~as the case may be~~. However, any such abandonment shall be subject to
630 the rights of owners of any public utility installations ~~which~~ that have been previously erected
631 therein.

632 **Drafting note: Technical changes.**

633 § ~~33.1-163.1~~ 33.2-XXX. Recordation of order of abandonment of roads, highways, or
634 ~~rail~~ railroad crossings by counties.

635 A certified copy of ~~any an~~ order of abandonment of ~~any a~~ road, highway, or ~~rail~~ railroad
636 crossing by ~~any a~~ county adopted pursuant to Article ~~11~~ (~~§ 33.1-150 et seq.~~) or ~~12~~ (~~§ 33.1-156 et~~
637 ~~seq.) of this chapter~~ 2 (§ 33.2-XXX et seq.) or this article shall be recorded and indexed in the
638 deed book in the name of the county as grantor; ~~or~~ where record title to the underlying fee is not
639 known; shall be recorded in the office of the clerk of court in the county where such road,
640 highway, or ~~rail~~ railroad crossing is located in the name of the county entering such order.

641 **Drafting note: Technical changes.**

642 § ~~33.1-164~~ 33.2-XXX. Alternative procedure for abandonment of old road or crossing to
643 extent of alteration.

644 When any road or any road containing a ~~railway highway~~ highway-rail grade crossing
645 has been or is altered and a new road, ~~which that~~ serves the same ~~citizens~~ users as the old road,
646 is constructed ~~in lieu thereof~~ as a replacement and approved by the governing body, the old road
647 ~~and/or the or~~ public crossing may be abandoned to the extent of such alteration, but no further,
648 by a resolution of the ~~board of supervisors or other~~ governing body ~~of the county~~, declaring the
649 old road ~~and/or the or~~ public crossing abandoned.

650 **Drafting note: Technical changes.**

651 § ~~33.1-165~~ 33.2-XXX. Conveying sections of roads or other property no longer
652 necessary.

653 When any road abandoned as ~~above~~ provided in this article is deemed by the governing
654 body no longer necessary for the public use, ~~it the governing body~~ shall so certify ~~such facts~~
655 ~~upon in~~ its minutes and ~~it~~ may authorize the sale and conveyance in the name of the county of a
656 deed or deeds conveying such sections, either for ~~a~~ consideration or in exchange for other lands
657 that may be necessary for the uses of the county. ~~But~~ However, before any such deed either for
658 the sale or exchange of land is executed conveying any section of a road ~~upon or~~ along which
659 any person ~~or persons reside~~ resides, the governing body shall give notice ~~shall be given by the~~
660 ~~governing body~~ to the owner or owners of the land upon which such person ~~or persons reside~~
661 resides of the intention to convey the section of road and if, after a reasonable notice of such
662 intention, any such landowner so requests, the governing body shall order a hearing ~~shall be~~
663 ~~ordered by the governing body~~. If, upon such hearing, it is ~~made to appear~~ determined that such
664 section of road should be kept open for the reasonable convenience of such landowner, or the
665 public, then such section of road shall not be conveyed. The action of the governing body under
666 this section shall not be subject to § 15.2-1800.

667 **Drafting note: Technical changes.**

668 § ~~33.1-166~~. ~~Certain abandonments validated.~~

669 ~~All abandonments of roads sought to be effected before July 1, 1950, are hereby~~
670 ~~validated notwithstanding any defects or deficiencies in the proceedings provided the rights of~~
671 ~~third parties have not intervened.~~

672 **Drafting note: This section is proposed to be removed because it is obsolete.**

673 § ~~33.1-166.1~~ 33.2-XXX. Alternative method of abandoning roads.

674 As an alternative to the procedure for abandonment prescribed by ~~§§ 33.1-157 through~~
675 ~~33.1-164~~ this article, a road may be abandoned in accordance with the procedure for vacations
676 in subdivision 2 of § 15.2-2272. All abandonments of roads sought to be effected according to
677 subsection (b) of former § 15.1-482 before July 1, 1990, are hereby validated notwithstanding
678 any defects or deficiencies in the proceeding, provided that property rights ~~which that~~ have
679 vested subsequent to the attempted abandonment are not impaired by such validation. The
680 manner of reversion shall not be affected by this section.

681 **Drafting note: Technical changes.**

682 § ~~33.1-167~~ 33.2-XXX. Chapter 20 of Title 15.2 not affected ~~by Articles 10, 11 or 12.~~

683 ~~None of the provisions~~ No provision of ~~Articles 10 (§ 33.1-144 et seq.), 11 Article 1 (§~~
684 ~~33.1-150~~ 33.2-XXX et seq.) ~~and 12 (§ 33.1-156 et seq.) of this chapter or 2 (§ 33.2-XXX et~~
685 ~~seq.) or this article~~ shall affect the provisions of Chapter 20 (§ 15.2-2000 et seq.) of Title 15.2 ~~of~~
686 ~~this Code.~~

687 **Drafting note: Technical changes.**

688 Article ~~13~~ 4.

689 Abandonment of ~~Roads~~ Highways for Flooding Secondary Highways in Connection with
690 Municipal Water Supply Projects.

691 **Drafting note: Article 13 of existing Chapter 1 of Title 33.1 is relocated to this**
692 **proposed Chapter XXX as Article 4.**

693 § ~~33.1-168~~ 33.2-XXX. Abandonment of ~~road~~ highway in area to be flooded ~~for purpose~~
694 ~~of in connection with~~ municipal water supply projects.

695 ~~Whenever any~~ When a city or town ~~which that~~ owns and operates a waterworks system
696 ~~for the purpose of supplying such that supplies the~~ city or town and its inhabitants with water
697 finds it necessary to ~~enlarge increase~~ its water supply, ~~for the accomplishment of which it is~~
698 ~~necessary to impound such that it requires impounding~~ the water of a stream ~~without outside~~ the
699 corporate limits of such city or town, by means of a dam erected in such stream, and the
700 impounding of the water thereof would result in the overflow, or flooding, of a section or
701 sections of a ~~road highway~~ or ~~roads highways~~ within the secondary state highway system ~~of~~
702 ~~state highways, thereby necessitating that necessitates~~ the alteration and relocation of the ~~road~~
703 highway or ~~roads highways~~ and the ~~council governing body~~ of the city or town ~~shall~~ by
704 ordinance ~~declare declares~~ (i) such necessity and (ii) that it is the intention of such city or town
705 to comply with the requirements of this article, ~~as hereinafter set forth, the road then the~~
706 highway proposed to be flooded may be discontinued and abandoned but only after the city or
707 town has complied with the provisions and requirements of ~~§§ 33.1-169 through 33.1-174 this~~
708 article.

709 **Drafting note: Technical changes.**

710 § ~~33.1-169~~ 33.2-XXX. Procedure to secure ~~such~~ abandonment of highways to be flooded
711 in connection with municipal water supply projects.

712 ~~Such A~~ A city or town subject to the provisions of this article shall certify to the ~~board of~~
713 ~~supervisors or other~~ governing body of the county in within which the ~~road highway~~, or the
714 greater part thereof, lies a copy of the ordinance adopted by ~~its council the city or town~~ as
715 ~~aforsaid, and the board of supervisors or other provided in this article. The~~ governing body of
716 the county, upon receipt ~~of the same~~, shall within ~~thirty~~ 30 days (i) consider the ~~question of the~~
717 reasonableness of the action contemplated by the city or town ordinance ~~and shall~~, (ii) propose
718 and publish ~~as required by law~~ an ordinance approving or disapproving the action contemplated
719 by the city or town, and ~~shall~~ (iii) conduct a hearing thereon. In the event that, after such
720 hearing, the ~~board of supervisors or other~~ governing body of the county disapproves the
721 proposed flooding, discontinuance, and abandonment of the ~~road highway~~, the city or town shall

722 have, ~~as of the~~ right, ~~to~~ an appeal to the circuit court of the county where the question of the
723 reasonableness of the proposed flooding and abandonment shall be heard de novo by the circuit
724 court, or the judge thereof in vacation, and judgment shall be rendered according to its decision.
725 From the judgment a writ of error will lie, in the discretion of the Supreme Court of Virginia, ~~as~~
726 ~~in other cases at law.~~

727 **Drafting note: Technical changes.**

728 § ~~33.1-170~~ 33.2-XXX. Plans for relocation of ~~such highway~~ highways in connection
729 with municipal water supply projects.

730 ~~When and if~~ If there ~~shall be~~ is a final approval of the abandonment of the ~~road~~ highway
731 by the ~~board of supervisors or other~~ governing body of the county or by the court, ~~as the case~~
732 ~~may be~~, the city or town shall, solely at its own expense, submit to the Commissioner of
733 Highways plans and specifications for a proposed relocation of the highway, containing such
734 information and facts as a location, elevations, and other matters ~~as~~ the Commissioner of
735 Highways may require. The Commissioner of Highways shall have the power to change, alter,
736 and amend the plans ~~so as~~ in order to conform to the ~~Commissioner's~~ views of the
737 Commissioner of Highways as to the location, width, and type of construction of such ~~road~~
738 highway to be built on the new location, provided, ~~however~~, that the new ~~road shall be so~~
739 highway is located such that it will not be flooded by the water to be impounded, and provided
740 further, that the Commissioner of Highways may not require a more expensive type or character
741 of ~~road~~ highway than the one to be abandoned. The Commissioner of Highways shall ~~either~~
742 approve such plans and specifications either as proposed by the city or town or as ~~so~~-amended
743 by the Commissioner of Highways.

744 **Drafting note: Technical changes.**

745 § ~~33.1-171~~ 33.2-XXX. Acquisition of lands for ~~such~~ relocation.

746 Upon the approval of ~~such~~ plans and specifications by the Commissioner of Highways,
747 the city or town shall, solely at its own expense ~~acquire, and~~ in the name of the Commonwealth
748 ~~of Virginia~~, acquire either by purchase or condemnation, the right-of-way necessary to construct

749 the highway on the new location as shown by the plans approved by the Commissioner ~~and, in~~
750 of Highways. In the event of condemnation, the proceedings shall be instituted in the name of
751 the city or town and shall ~~in all respects~~ conform to the proceedings ~~which that~~ would be
752 applicable if they had been instituted by the Commissioner of Highways, ~~but.~~ However, when
753 the award has been paid, the title to the lands acquired in the proceedings shall, ~~when the award~~
754 ~~of the commissioners has been paid,~~ vest in the Commonwealth ~~of Virginia~~ in the same manner
755 as if the Commissioner of Highways had instituted and conducted the proceedings and had paid
756 ~~the amount of~~ the award.

757 **Drafting note: Technical changes are made. The reference to "the award of the**
758 **commissioners" which is granted in the event of condemnation is changed simply to "the**
759 **award" because the award can also be made by a jury.**

760 § ~~33.1-172~~ 33.2-XXX. Costs of relocation.

761 ~~Such~~ The city or town shall pay out of its own funds all costs incident to all surveys,
762 plans, specifications, blueprints, or other matters relating to the relocation of the highway and
763 the entire cost of acquiring, by purchase or by condemnation, the right-of-way ~~aforsaid~~.

764 **Drafting note: Technical changes.**

765 § ~~33.1-173~~ 33.2-XXX. Construction of relocated ~~road~~ highway.

766 Upon the acquisition of ~~the a~~ right-of-way as ~~hereinabove~~ provided in this article, the
767 city or town shall grade ~~the same such right-of-way~~ and construct ~~thereon~~ the highway required,
768 in accordance with the plans and specifications approved by the Commissioner, ~~as aforesaid, the~~
769 ~~road or highway thereby required~~.

770 **Drafting note: Technical changes.**

771 § ~~33.1-174~~ 33.2-XXX. Approval or disapproval of ~~such~~ construction.

772 When ~~such road or a~~ highway ~~shall have been is~~ completed, the city or town shall notify
773 the Commissioner of Highways, who shall promptly cause an inspection ~~thereof~~ to be made by
774 the Department ~~of Transportation~~. If the Department approves the ~~same~~ highway construction,
775 the Commissioner of Highways shall notify the city or town, in writing, of such fact. If the

776 Department disapproves the ~~same~~ highway construction, it shall notify the city or town,
777 specifying the Department's objections and recommendations for remedying or removing them,
778 and the city or town shall promptly carry out such recommendations.

779 **Drafting note: Technical changes.**

780 § ~~33.1-175~~ 33.2-XXX. New ~~road~~ highway part of secondary state highway system;
781 former ~~road~~ highway to vest in ~~municipality~~ city or town.

782 When the city or town ~~shall have~~ has been notified by the Commissioner of Highways of
783 final approval of the construction of the ~~road or~~ highway, ~~the same~~ such highway shall
784 immediately become a part of the secondary state highway system ~~of state highways~~, and the
785 public shall be vested with the same rights of travel ~~thereover~~ on such highway as it possesses
786 with respect to the other highways in the system. ~~And thereupon and~~ the part of the ~~road or~~
787 highway ~~which~~ that it is proposed to flood shall be deemed to be abandoned, and all public
788 rights therein shall vest in the city or town.

789 **Drafting note: Technical changes.**

790 #

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27

SUBTITLE IV

LOCAL & REGIONAL TRANSPORTATION.

Drafting note: A subtitle is created to organize articles and chapters that relate to local and regional transportation. Within this subtitle there are references to many local boards such as boards of supervisor or district advisory boards and so in this subtitle references to the Commonwealth Transportation Board use the full name so as not to create confusion between the different boards.

CHAPTER ~~45~~ XX.

TRANSPORTATION DISTRICT ACT OF 1964.

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

Article 1.

General Provisions.

~~§ 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-XXX. 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

28 Commonwealth Transportation Board. In those urban areas of the Commonwealth ~~which that~~
29 together form a single metropolitan area, solutions must be jointly sought with the affected
30 political subdivisions and highway departments. Such joint action should be conducted in a
31 manner ~~which that~~ preserves, to the extent the necessity for joint action permits, local autonomy
32 over patterns of growth and development of each participating ~~political jurisdiction~~ locality. The
33 requisite joint action may best be achieved through the device of a transportation district, having
34 the powers, functions, and duties ~~hereinafter~~ set forth in this chapter. In the provision of
35 improved or expanded transit facilities, it is the policy of the Commonwealth to make use of
36 private enterprise to the extent reasonably practicable.

37 **Drafting note: Technical changes are made to conform language with the proposed**
38 **title-wide definitions section, § 33.2-100.**

39 § ~~15.2-4502~~ 33.2-XXX. Definitions.

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

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

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

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

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

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

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

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

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

59 ~~(g)~~ "Person" means an individual, partnership, association, or corporation_; or any
60 governmental agency or authority_;

61 ~~(h)~~ "State_;" when applied to a part of the United States, includes any of the 50 states and
62 the District of Columbia_;

63 ~~(i)~~ "Transportation facilities," "transit facilities_;" or "facilities" ~~mean means~~ all those
64 matters and things utilized in rendering transportation service by means of rail, bus, water_; or air
65 and any other mode of travel, including ~~without limitation~~ tracks, rights-of-way, bridges,
66 tunnels, subways, and rolling stock for rail, motor vehicle, marine_; and air transportation_;
67 stations, terminals_; and ports_; areas for parking_; buildings_; structures_; and all equipment,
68 fixtures_; and business activities reasonably required for the performance of transportation
69 service, but ~~shall does~~ not include any such facilities owned by any person, company,
70 association_; or corporation_; the major part of whose transportation service extends beyond a
71 transportation district created hereunder in this chapter.

72 **Drafting note: The term "standard metropolitan statistical area," used in the**
73 **definition of "metropolitan area," has been discontinued by the Office of Management and**
74 **Budget and the U. S. Census Bureau. See www.census.gov/population/metro/; the term has**
75 **not been used since 1983. It is replaced with "metropolitan statistical area" per current**
76 **usage by the U.S. Census Bureau and the Office of Management and Budget. The**
77 **definition of "state" amended here uses the definition from Title 1. Technical changes are**
78 **made including organizing definition by alpha order.**

79 § ~~15.2-4503~~ 33.2-XXX. ~~Conductors, etc., authorized~~ Authorization to issue summons.

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

84 **Drafting note: Technical changes.**

85 Article 2.

86 Creation of Districts.

87 **Drafting note: The two sections found in existing Article 2 are interchanged so that**
88 **the section delineating the procedure for creation of districts is found first, before the**
89 **Northern Virginia Transportation District and Commission.**

90 § ~~15.2-4504~~ 33.2-XXX. Procedure for creation of districts; ~~single jurisdictional districts;~~
91 ~~application of chapter to port authorities and airport commissions.~~

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

107 | the Tax Commissioner and the governing ~~bodies~~ body of each of the participating counties and
108 | cities that the ordinances required by this chapter have been filed and, upon the basis of the facts
109 | set forth therein, satisfy such requirements, the territory defined in such ordinances, upon the
110 | entry of such certification in the minutes of the proceedings of the governing ~~bodies~~ body of
111 | each of the counties and cities, shall be and constitute a transportation district for all of the
112 | purposes of this chapter, known and designated by the name stated in the ordinances.

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

134 district shall adopt an ordinance specifying the area to be enlarged, containing the finding
135 specified in clause (iv) of subsection ~~(1) A~~, and a statement that a contract or agreement
136 between the county or city and the commission, specifying the terms and conditions of
137 admittance to the transportation district has been executed. The ordinance, to which shall be
138 attached a certified copy of such contract, shall be filed with the Secretary of the
139 Commonwealth, and upon certification by that officer to the Tax Commissioner, the
140 commission, and ~~to~~ the governing ~~bodies~~ body of each of the component counties and cities that
141 the ordinance required by this section has been filed, and that the terms thereof conform to the
142 requirements of this section, such additional county, or part thereof, or city, upon the entry of
143 such certification in the minutes of the proceedings of the governing body of such county or
144 city, shall become a component government of the transportation district and the county, or
145 portion thereof specified, or city shall be embraced ~~in the territory of~~ by the transportation
146 district.

147 **Drafting note: Technical changes.**

148 § ~~15.2-4503.1~~ 33.2-XXX. Northern Virginia Transportation District and Commission.

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

153 There is hereby established the Northern Virginia Transportation Commission (the
154 Commission) as a transportation commission pursuant to this chapter. The Commission shall
155 consist of five nonlegislative citizen members from Fairfax County, three nonlegislative citizen
156 members from Arlington County; one nonlegislative citizen member from ~~the County of~~
157 Loudoun County, two nonlegislative citizen members from the City of Alexandria, one
158 nonlegislative member from the City of Falls Church, one nonlegislative citizen member from
159 the City of Fairfax, and the Chairman of the Commonwealth Transportation Board or his
160 designee to serve ex officio with voting privileges. If a county or city contiguous to the District

161 agrees to join the District, such ~~jurisdiction~~ locality shall appoint one nonlegislative citizen
162 member to the Commission. Members from the ~~respective~~ counties and cities shall be appointed
163 from their respective governing bodies. The Commission shall also include four members of the
164 House of Delegates appointed by the Speaker of the House of Delegates for terms coincident
165 with their terms of office and two members of the Senate appointed by the Senate Committee on
166 Rules for terms coincident with their terms of office. Members may be reappointed for
167 successive terms. All members shall be citizens of the Commonwealth. Except for the Chairman
168 of the Commonwealth Transportation Board or his designee, all members of the Commission
169 shall be residents of the localities ~~comprising~~ composing the ~~Transportation~~ District. Vacancies
170 occurring other than by expiration of a term shall be filled for the unexpired term. Vacancies
171 shall be filled in the same manner as the original appointments.

172 **Drafting note: Technical changes are made. This section is unique because it is the**
173 **only regional district in the Transportation District Act.**

174 Article 3.

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

176 § ~~15.2-4505~~ 33.2-XXX. District a body corporate; ~~name and style~~.

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

180 **Drafting note: Technical changes.**

181 § ~~15.2-4506~~ 33.2-XXX. Creation of commission to control corporation.

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

185 **Drafting note: Technical changes.**

186 § ~~15.2-4507~~ 33.2-XXX. Members of transportation district commissions.

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

202 | In the case of a commission of a transportation district, commonly known as the
203 | Potomac and Rappahannock Transportation Commission, which was established on or after July
204 | 1, 1986, and which includes more than one ~~jurisdiction~~ locality located within the Washington,
205 | D.C., metropolitan area, such commission shall also include two members of the House of
206 | Delegates and one member of the Senate from legislative districts located wholly or in part
207 | within the boundaries of the transportation district. The members of the House of Delegates
208 | shall be appointed by the Speaker of the House for terms coincident with their terms of office,
209 | and the member of the Senate shall be appointed by the Senate Committee on Rules for a term
210 | coincident with his term of office. The members of the General Assembly shall be eligible for
211 | reappointment for successive terms. Vacancies occurring other than by expiration of a term shall
212 | be filled for the unexpired term. Vacancies shall be filled in the same manner as the original
213 | appointments.

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

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

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

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

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

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

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

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

264 | 5. Members may be removed from the board of directors of ~~the~~ WMATA if they attend
265 | fewer than three-fourths of the meetings in a calendar year; if they are conflicted due to

266 employment at WMATA; or if they are found to be in violation of the State and Local
267 Government Conflict of Interests Act (§ 2.2-3100 et seq.). If a board member is removed during
268 a term, the vacancy shall be filled pursuant to the provisions of subdivision 4.

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

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

278 **Drafting note: Technical changes are made. This section was amended during the**
279 **2013 Regular Session by HB 2152 which added a subsection C, however, those changes are**
280 **not reflected in this proposed chapter because HB 2152 had a delayed effective date of July**
281 **1, 2014.**

282 § ~~15.2-4508~~ 33.2-XXX. Officers of commission.

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

292 **Drafting note: Technical change.**

293 | § ~~15.2-4509~~ 33.2-XXX. Bonds of members.

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

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

302 | § ~~15.2-4510~~ 33.2-XXX. Compensation and expenses of members.

303 | The commission members shall receive no salary but shall be entitled to reimbursement
304 | of all reasonable and necessary expenses and compensation allowed members of the
305 | Commonwealth Transportation Board for the performance of their official duties as provided in
306 | §§ 2.2-2813 and 2.2-2825.

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

308 | § ~~15.2-4511~~ 33.2-XXX. Meetings of commission.

309 | Regular meetings of the commission shall be held at least once every month at such time
310 | and place as the commission shall ~~from time to time~~ prescribe. Special meetings of the
311 | commission shall be held upon mailed notice, or actual notice otherwise given, to each
312 | commission member upon call of the chairman or any two commission members, at such time
313 | and in such place within the district as such notice may specify, or at such other time and place
314 | with or without notice as all commission members may expressly approve. All regular and
315 | special meetings of the commission shall be open to the public, but the public shall not be
316 | entitled to any notice other than provided ~~herein in this section~~. Unless a meeting is called for
317 | the purpose of a public hearing, members of the public shall have no right to be heard or
318 | otherwise participate in the proceedings of the meeting, except to the extent the chairman may
319 | in specific instances grant. All commission records shall be public records.

320 **Drafting note: Technical changes.**

321 § ~~15.2-4512~~ 33.2-XXX. Quorum and action by commission.

322 A majority of the commission, which majority shall include at least one commissioner
323 from a majority of the component governments, shall constitute a quorum. Members of the
324 commission who are members of the General Assembly shall not be counted in determining a
325 quorum while the General Assembly is in session. The Chairman of the Commonwealth
326 Transportation Board or his designee may be included for the purposes of constituting a
327 quorum. The presence of a quorum and a vote of the majority of the members necessary to
328 constitute a quorum of all the members appointed to the commission, including an affirmative
329 vote from a majority of the jurisdictions represented, shall be necessary to take any action.
330 Notwithstanding the provisions of § 2.2-3708, members of the General Assembly may
331 participate in the meetings of the commission through electronic communications while the
332 General Assembly is in session.

333 **Drafting note: A technical change is made. This section was amended during the**
334 **2013 Regular Session by HB 2152, however, those changes are not reflected because HB**
335 **2152 had a delayed effective date of July 1, 2014.**

336 § ~~15.2-4513~~ 33.2-XXX. Funds of commission.

337 A. All moneys of a commission, whether derived from any contract of the commission
338 or from any other source, shall be collected, received, held, secured, and disbursed in
339 accordance with any relevant contract of the commission. This section shall apply to such
340 moneys only if and to the extent they are consistent with such commission contracts.

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

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

345 **Drafting note: No change.**

346 § ~~15.2-4514~~ 33.2-XXX. Accounts and records.

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

353 **Drafting note: Technical changes.**

354 Article 4.

355 Powers and Functions of Commission.

356 ~~§ 15.2-4515~~ 33.2-XXX. Powers and functions generally.

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

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

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

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

369 4. The commission may enter into contracts or agreements with the counties and cities
370 within the transportation district, ~~or~~ with counties and cities ~~which~~ that adjoin the transportation
371 district and are within the same planning district, or with other commissions of adjoining
372 transportation districts; to provide, or cause to be provided, transit facilities and service to such
373 counties and cities; or to provide transit facilities and other modes of transportation between

374 adjoining transportation districts. Such contracts or agreements, together with any agreements or
375 leases for the operation of such facilities, may be utilized by the transportation district to finance
376 the construction and operation of transportation facilities, and such contracts, agreements, or
377 leases shall inure to the benefit of any creditor of the transportation district.

378 ~~Notwithstanding the above, however~~ However, except in any transportation district
379 containing any or all of the Counties of Chesterfield, Hanover, and Henrico, ~~and Chesterfield~~ or
380 the City of Richmond, being so delegated by the respective local governments, the commission
381 shall not have the power to regulate services provided by taxicabs, either within municipalities
382 or across municipal boundaries, which regulation is expressly reserved to the municipalities
383 within which taxicabs operate. In any transportation district containing any or all of the Counties
384 of Chesterfield, Hanover, and Henrico, ~~and Chesterfield~~ or the City of Richmond, the
385 commission may, upon proper authority granted by the respective component governments,
386 regulate services provided by taxicabs, either within localities or across county or city
387 boundaries.

388 B. When the transportation district is located within a metropolitan area ~~which that~~
389 includes all or a portion of a state or states contiguous to ~~Virginia~~ the Commonwealth, the
390 commission:

391 1. Shall not prepare a transportation plan ~~nor or~~ construct or operate transit facilities, but
392 shall collaborate and cooperate in the manner specified in Article 7 (§§ ~~15.2-4527 and 15.2-~~
393 ~~4528~~ 33.2-XXX et seq.) with an agency in preparing, revising, and amending a transportation
394 plan for such metropolitan area.

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

399 3. May, when a transportation plan applicable to such a transportation district is adopted,
400 enter into contracts or agreements with an agency to contribute to the capital required for the

401 | construction ~~and/or or~~ acquisition of transportation facilities and for meeting expenses and
402 | obligations in the operations of such facilities.

403 | 4. May, when a transportation plan applicable to such transportation district is adopted,
404 | enter into contracts or agreements with the counties and cities within the transportation district
405 | to provide or cause to be provided transportation facilities and service to such counties and
406 | cities.

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

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

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

414 | c. May, in accordance with the terms of any grant from or loan by the United States of
415 | America or the Commonwealth, or any agency or instrumentality thereof, or when necessary to
416 | preserve essential transportation service, acquire transit facilities or any carrier, ~~which that~~ is
417 | subject to the jurisdiction of the Washington Metropolitan Area Transit Commission, by
418 | acquisition of the capital stock or transit facilities and other assets of any such carrier and shall
419 | provide for the performance of transportation by any such carrier or with such transit facilities
420 | by contract or lease. However, the contract or lease shall be for a term of no more than one year,
421 | renewable for additional terms of similar duration, and, in order to assure acceptable fare levels,
422 | may provide for financial assistance by purchase of service, operating subsidies, or otherwise.
423 | No such service ~~will shall~~ be rendered ~~which that~~ will adversely affect transit service rendered
424 | by the transit facilities owned or controlled by the agency or any existing private transit or
425 | transportation company. When notified by the agency that it is authorized to perform or cause to
426 | be performed transportation services with motor vehicle facilities, the commission, upon request

427 by the agency, shall transfer such capital stock or transit facilities to the agency at a price to be
428 agreed upon; and

429 d. May prepare a plan for mass transportation services with cities, counties, agencies,
430 authorities, or commissions and may further contract with transportation companies, cities,
431 counties, commissions, authorities, agencies, and departments of the Commonwealth and
432 appropriate agencies of the federal government ~~and/or or~~ governments contiguous to ~~Virginia~~
433 the Commonwealth to provide necessary facilities, equipment, operations and maintenance,
434 access, and insurance pursuant to such plan.

435 C. The provisions of subdivisions B 1 through 4 and ~~provisions b and c of subdivision~~
436 subdivisions B 5 ~~of subsection B b and c~~ shall not apply (i) to any transportation district ~~which~~
437 that may be established on or after July 1, 1986, and which includes any one or more
438 ~~jurisdictions which localities that~~ are located within a metropolitan area, but which were not, on
439 January 1, 1986, members of any other transportation district or (ii) to any ~~jurisdiction locality~~
440 ~~which that~~, after July 1, 1989, joins a transportation district ~~which that~~ was established on or
441 before January 1, 1986. The provisions of this subsection shall ~~only~~ apply only to any
442 transportation district or ~~jurisdiction which locality that~~ is contiguous to the Northern Virginia
443 Transportation District. Any such district or ~~jurisdiction locality~~ shall be subject to the
444 provisions of subsection A ~~hereof~~, and further may exercise the powers granted by subdivision
445 B 5 a to acquire land or any interest therein by purchase, lease, gift, condemnation, or otherwise
446 and provide transportation facilities thereon for use in connection with any transportation
447 service.

448 D. Until such time as a commission enters into contracts or agreements with its
449 component governments under the provisions of subdivisions A 4 and B 4 and is receiving
450 revenues thereunder, adequate to meet the administrative expenses of the commission after
451 paying or providing for the payment of the obligations arising under said subdivisions, the
452 administrative expenses of the commission shall be borne by the component governments in the
453 manner ~~herein~~ set forth in this section. The commission annually shall submit to the governing

454 bodies of the component counties and cities a budget of its administrative requirements for the
455 next year. Except for the Northern Virginia Transportation Commission, the administrative
456 expenses of the commission, to the extent funds for such expenses are not provided from other
457 sources, shall be allocated among the component governments on the basis of population as
458 reflected by the latest population statistics of the ~~Bureau of the Census~~ U.S. Census Bureau;
459 however, upon the request of any component government, the commission shall make the
460 allocation upon estimates of population prepared in a manner approved by the commission and
461 by the governing body of the component government making such request. For the Northern
462 Virginia Transportation Commission, the administrative expenses of the Commission, to the
463 extent funds for such expenses are not provided from other sources, shall be allocated among
464 the component governments on the basis of the relative shares of state and federal transit aids
465 allocated by the Commission among its component governments. Such budget shall be limited
466 solely to the administrative expenses of the Commission and shall not include any funds for
467 construction or acquisition of transportation facilities ~~and/or or~~ the performing of transportation
468 service. In addition, the Commission annually shall submit to the governing bodies of the
469 component counties and cities a budget of its other expenses and obligations for the ensuing
470 year. Such expenses and obligations shall be borne by the component counties and cities in
471 accordance with prior arrangements made therefor.

472 E. When a transportation plan has been adopted under ~~§ 15.2-4528~~ subdivision A 4 of §
473 33.2-XXX, the commission shall determine the equitable allocation among the component
474 governments of the costs incurred by the district in providing the transportation facilities
475 proposed in the transportation plan and any expenses and obligations from the operation thereof
476 to be borne by each county and city. In making such determinations, the commission shall
477 consider the cost of the facilities located within each county and city, the population of each
478 county and city, the benefits to be derived by each county and city from the proposed
479 transportation service, and all other factors ~~which that~~ the commission determines to be relevant.
480 Such determination, however, shall not create a commitment by the counties and cities, and such

481 commitments shall be created only under the contracts or agreements specified in subdivisions
482 A 4 and B 4.

483 **Drafting note: Technical changes.**

484 ~~§ 15.2-4516 33.2-XXX. Regulation of fares, schedules, franchising agreements and~~
485 ~~routing of transit facilities~~ Commission control of transportation district.

486 The commission may exercise exclusive control, notwithstanding any provision of law
487 to the contrary, of matters of regulation of fares, schedules, franchising agreements, and routing
488 of transit facilities within the boundaries of its transportation district; however, the provisions of
489 § 5.1-7 ~~of the Code of Virginia~~ shall be applicable to airport commissions.

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

492 ~~§ 15.2-4517 33.2-XXX.~~ Protection of employees of public transportation systems.

493 In any county or city, the commission referred to in § ~~15.2-4515 33.2-XXX~~, in addition
494 to other prohibitions, shall not operate any such transit facility, or otherwise provide or cause to
495 be provided, any transportation services, unless fair and equitable arrangements have been made
496 for the protection of employees of existing public transportation systems in the transportation
497 district or in the metropolitan area in which the transportation district is located. Such
498 protections shall include (i) assurances of employment to employees of such transportation
499 systems to the fullest extent possible consistent with sound management, and priority of
500 employment; or, if terminated or laid off, reemployment; (ii) preservation of rights, privileges,
501 and benefits ~~(, including continuation of pension rights and benefits,)~~ under existing collective
502 bargaining agreements or otherwise; (iii) continuation of collective bargaining rights; (iv)
503 protection of individual employees against a worsening of their positions with respect to their
504 employment, to the extent provided by ~~§ 13 (e) of the Urban Mass Transportation Act, as~~
505 ~~amended~~, 49 U.S.C. § 5333 (b), also known as § 13(c) of the Federal Transit Act; and (v) paid
506 training and retraining programs. Such protections shall be specified by the commission in any
507 contract or lease for the acquisition or operation of any such transit facilities or services. The

508 employees of any transit facility operated by the commission shall have the right, in the case of
509 any labor dispute relating to the terms and conditions of their employment for the purpose of
510 resolving such dispute, to submit the dispute to final and binding arbitration by an impartial
511 umpire or board of arbitration acceptable to the parties.

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

523 | § ~~15.2-4517.1~~ 33.2-XXX. Background checks of applicants and employees.

524 A. Any commission created pursuant to this chapter may require any individual who is
525 offered a position of employment with the commission, or with any contractor of the
526 commission when such individual is to be assigned to directly provide transit services to the
527 public under a contract with the commission, to submit to fingerprinting and to provide personal
528 descriptive information to be forwarded along with the individual's fingerprints through the
529 Central Criminal Records Exchange to the Federal Bureau of Investigation for the purpose of
530 obtaining criminal history record information regarding such individual. The commission shall
531 bear all costs of obtaining criminal history record information regarding such individual,
532 | including expenses incurred by the ~~Virginia~~ State Police in connection with such fingerprinting
533 or criminal records check. The commission may require such individual or contractor to
534 reimburse the commission for the cost of the fingerprinting or a criminal records check or both.

535 B. The Central Criminal Records Exchange, upon receipt of an individual's record or
536 notification that no record exists, shall make a report to the commission's chief administrative
537 officer, who must belong to a governmental entity. The information shall not be disseminated
538 except as provided for in this section.

539 **Drafting note: Technical change.**

540 ~~§ 15.2-4518~~ 33.2-XXX. Additional powers.

541 Without limiting or restricting the general powers created by this chapter, the
542 commission may:

- 543 1. Adopt and have a common seal and alter the seal at pleasure;
- 544 2. Sue and be sued;
- 545 3. Make regulations for the conduct of its business;
- 546 4. Make and enter into all contracts or agreements, as the commission may determine,
547 ~~which~~ that are necessary or incidental to the performance of its duties and to the execution of the
548 powers granted under this chapter;
- 549 5. Apply for and accept loans and grants of money or materials or property at any time
550 from the United States of America or the Commonwealth or any agency or instrumentality
551 thereof, for itself or as an agent on behalf of the component governments or any one or more of
552 them; ~~and in connection therewith;~~ purchase or lease as lessor or lessee; ~~any transit facilities~~
553 required under the terms of any such grant made to enable the commission to exercise its
554 powers under ~~§ 15.2-4515~~ subdivision B 5 of § 33.2-XXX;
- 555 6. In the name of the commission, and on its behalf, acquire, hold, ~~and~~ and dispose of its
556 contract or other revenues;
- 557 7. Exercise any power usually possessed by private corporations, including the right to
558 expend, solely from funds provided under this chapter, such funds as may be considered by the
559 commission to be advisable or necessary in the performance of its duties and functions;

560 8. Employ engineers, attorneys, other professional experts and consultants, and general
561 and clerical employees deemed necessary; and prescribe their powers and duties and fix their
562 compensation;

563 9. Do anything authorized by this chapter under, through, or by its own officers, agents,
564 and employees, or by contracts with any persons;

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

567 11. Institute and prosecute any eminent domain proceedings to acquire any property
568 authorized to be acquired under this title in accordance with the provisions of Chapter 2 (§ 25.1-
569 200 et seq.) of Title 25.1; and subject to the approval of the State Corporation Commission
570 pursuant to § 25.1-102;

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

574 13. Notwithstanding the provisions of § 8.01-195.3, contract to indemnify, and to obtain
575 liability insurance to cover such indemnity, any person who is liable, or who may be subjected
576 to liability, regardless of the character of the liability, as a result of the exercise by a commission
577 of any of the powers conferred by this chapter. No obligation of a commission to indemnify any
578 such person shall exceed the combined maximum limits of all liability policies, as defined in-§
579 ~~15.2-4526 subsection C of § 33.2-XXX~~, maintained by the commission; and

580 14. Notwithstanding any other contrary provision of law ~~to the contrary~~, regulate traffic
581 signals and other ~~vehiele~~ traffic control devices within ~~its jurisdiction~~ the district, through the
582 use of computers and other electronic communication and control devices, so as to effect the
583 orderly flow of traffic and to improve transportation services within ~~its jurisdiction~~ the district;
584 however, an agreement concerning the operation of traffic control devices acceptable to all
585 parties shall be entered into between the commission and the ~~Virginia~~ Department ~~of~~

586 ~~Transportation~~, and all the counties and cities within the transportation district prior to the
587 commencement of such regulation.

588 **Drafting note: Technical changes.**

589 Article 5.

590 Financing.

591 § ~~15.2-4519~~ 33.2-XXX. Authority to issue bonds and other obligations; ~~terms and~~
592 ~~conditions of bonds; enforcement; exemption from taxation; legal investments.~~

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

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

606 B. 1. Bonds of a transportation district shall be authorized by resolution, may be issued
607 in one or more series, shall be dated, shall mature at such times not exceeding ~~forty~~ 40 years
608 from their dates, shall bear interest at rates determined by the commission, and may be made
609 redeemable before maturity, at the option of the commission at such price or prices and under
610 such terms as the commission fixes prior to issuing the bonds. The commission shall determine
611 the form of the bonds, including any interest coupons to be attached and the manner of
612 execution of the bonds, and shall fix the denominations of the bonds and the places of payment

613 of principal and interest, which may be at any bank or trust company within or outside the
614 Commonwealth. If any officer whose signature or facsimile signature appears on any bonds or
615 coupons ceases to be such officer before delivery of such bond, such signature or facsimile shall
616 nevertheless be valid and sufficient for all purposes the same as if he had remained in office
617 until such delivery. Notwithstanding any other provisions of this article or any recitals in any
618 bonds issued under the provisions of this article, all such bonds shall be negotiable instruments
619 under the laws of the Commonwealth. The bonds may be issued in coupon or registered form or
620 both, as the commission may determine, and provision may be made for the registration of any
621 coupon bonds as to principal alone and also as to both principal and interest, and for the
622 reconversion into coupon bonds of any bonds registered as to both principal and interest. The
623 transportation district may sell such bonds in such manner, either at public or private sale, and
624 for such price, as it may determine to be for the best interests of the district. A transportation
625 district is authorized to enter into indentures or agreements with respect to all such matters, and
626 such indentures or agreements may contain such other provisions as the commission may deem
627 reasonable and proper for the security of the bondholders. The resolution may provide that the
628 bonds shall be payable from and secured by all or any part of the revenues, moneys, or funds of
629 the district as specified therein. Such pledge shall be valid and binding from the time the pledge
630 is made, and such revenues, moneys, and funds so pledged and thereafter received by the district
631 shall immediately be subject to the lien of such pledge without any physical delivery thereof or
632 further act. The lien of any such pledge shall be valid and binding as against all parties having
633 claims of any kind in tort, contract, or otherwise against the district, irrespective of whether such
634 parties have notice thereof. Neither the resolution nor any trust indenture by which a pledge is
635 created need be filed or recorded except in the records of the district. All expenses incurred in
636 carrying out the provisions of such indentures or agreements may be treated as a purpose of the
637 transportation district. A transportation district may issue refunding bonds for the purpose of
638 redeeming or retiring any bonds before or at maturity, including the payment of any premium,
639 accrued interest, and costs or expenses thereof.

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

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

650 C. Any holder of bonds, notes, certificates, or other evidence of borrowing issued under
651 this article or of any of the coupons appertaining thereto, and the trustee under any trust
652 indenture or agreement, except to the extent of the rights ~~herein~~ given in this article may be
653 restricted by such trust indenture or agreement, may, either at law or in equity, by suit, action,
654 injunction, mandamus, or other proceedings, protect and enforce any and all rights under the
655 laws of the Commonwealth or granted by this article or under such trust indenture or agreement
656 or the resolution authorizing the issuance of such bonds, notes, or certificates, and may enforce
657 and compel the performance of all duties required by this article or by such trust indenture or
658 agreement or resolution to be performed by the transportation district or by any officer or agent
659 thereof.

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

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

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

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

678 § ~~15.2-4520~~ 33.2-XXX. Judicial determination of validity of bonds.

679 The provisions of ~~§§ Article 6 (§ 15.2-2650 to 15.2-2658 et seq.) of Chapter 26 of Title~~
680 15.2 apply to all suits, actions, and proceedings of whatever nature involving the validity of
681 bonds issued by a transportation district under the provisions of this article.

682 **Drafting note: Technical change.**

683 Article 6.

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

685 § ~~15.2-4521~~ 33.2-XXX. Contracts and payment thereof.

686 A. Any county or city embraced ~~within by~~ a transportation district is authorized to enter
687 into contracts or agreements with the commission for such transportation district, or with an
688 agency, pursuant to which such transportation district, subject to the limitations ~~herein~~ contained
689 in this section, or such agency undertakes to provide the transportation facilities specified in a
690 duly adopted transportation plan, ~~and/or or~~ to render transportation service. Any obligations
691 arising from such contracts are deemed to be for a public purpose and may be paid for, in the
692 discretion of each county or city, in whole or in part, by appropriations from general revenues or

693 from the proceeds of a bond issue or issues; however, any such contract must specify the annual
694 maximum obligation of any county or city for payments to meet the expenses and obligations of
695 the transportation district or such agency or provide a formula to determine the payment of any
696 such county or city for such expenses and obligations. Each county or city desiring to contract
697 with a transportation district or an agency is authorized to do so, provided it complies with the
698 appropriate provisions of law, and thereafter is authorized to do everything necessary or proper
699 to carry out and perform every such contract and to provide for the payment or discharge of any
700 obligation thereunder by the same means and in the same manner as any other of its obligations.

701 B. Except as otherwise provided by law:

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

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

712 **Drafting note: Technical changes.**

713 § ~~15.2-4522~~ 33.2-XXX. Venue.

714 Every such contract shall be enforceable by the transportation district with ~~whom~~ which
715 the contract is made, as provided under the laws of ~~Virginia~~ the Commonwealth, and, if any
716 such contract is entered into with an agency or is relied upon in a contract between a
717 commission and any such agency, the agency also shall have the right to enforce the contract.
718 The venue for actions on any contract between a transportation district and a component

719 government shall be as specified in subdivision 10 of § 8.01-261. Venue in all other matters
720 arising hereunder shall be as provided by law.

721 **Drafting note: Technical changes.**

722 | § ~~15.2-4523~~ 33.2-XXX. Acquisition of median strips for transit facilities in interstate
723 highways.

724 | When the district commission, the Commonwealth Transportation Board₂, and the
725 governing bodies of the component governments determine that the time schedule for
726 construction of any interstate highway, as defined in Article ~~3~~ XXX (§ ~~33.1-48~~ 33.2-XXX et
727 seq.) of Chapter ~~1 of Title 33.1~~ XXX, within the district makes it necessary to acquire median
728 strips for transit facilities in such highway prior to the adoption of a transportation plan, each
729 county and city within the district is authorized to pay to the Commonwealth Transportation
730 Board such sums as may be agreed upon among the district commission and such counties and
731 cities to provide the Commonwealth Transportation Board with the necessary matching funds to
732 acquire the median strips. Any such acquisition shall be made by and in the name of the
733 Commonwealth Transportation Board.

734 **Drafting note: Technical changes.**

735 | § ~~15.2-4524~~ 33.2-XXX. Appropriations.

736 The governing bodies of counties and cities participating in a transportation district are
737 authorized to appropriate funds for the administrative and other expenses and obligations (i) of
738 the commission of the transportation district, as provided in ~~§ 15.2-4515 subsection D of § 33.2-~~
739 XXX, (ii) of an agency₂, and (iii) for such other purposes as may be specified in a law creating a
740 transportation district.

741 **Drafting note: Technical changes.**

742 | § ~~15.2-4525~~ 33.2-XXX. Powers granted are in addition to all other powers.

743 The powers conferred by this chapter on counties and cities are in addition and
744 supplemental to the powers conferred by any other law, and may be exercised by resolution or
745 ordinance of the governing bodies thereof, as required by law, without regard to the terms,

746 conditions, requirements, restrictions, or other provisions contained in any other law, general or
747 special, or in any charter.

748 **Drafting note: Technical changes.**

749 ~~§ 15.2-4526~~ 33.2-XXX. Liabilities of Commonwealth, counties and cities.

750 A. Except for claims cognizable under the Virginia Tort Claims Act, Article 18.1 (§
751 8.01-195.1 et seq.) of Chapter 3 of Title 8.01, no pecuniary liability of any kind shall be
752 imposed on the Commonwealth or upon any county or city constituting any part of any
753 transportation district because of any act, agreement, contract, tort, malfeasance, misfeasance, or
754 nonfeasance, by or on the part of the commission of such transportation district, or any
755 commission member, or its agents, servants, and employees, except as otherwise provided in
756 this chapter with reference to contracts and agreements between the commission or interstate
757 agency and any county or city.

758 B. Except for claims cognizable under the Virginia Tort Claims Act, Article 18.1 (§
759 8.01-195.1 et seq.) of Chapter 3 of Title 8.01, the obligations and any indebtedness of a
760 commission shall not be in any way a debt or liability of the Commonwealth, or of any county
761 or city in whole or in part embraced ~~within by~~ the transportation district, and shall not create or
762 constitute any indebtedness, liability, or obligation of the Commonwealth or of any such county
763 or city, ~~either~~ legal, moral, or otherwise, and nothing in this chapter contained shall be construed
764 to authorize a commission or district to incur any indebtedness on behalf of or in any way to
765 obligate the Commonwealth or any county or city in whole or in part embraced ~~within by~~ the
766 transportation district; however, any contracts or agreements between the commission and any
767 county or city provided for in ~~§ 15.2-4515 subdivisions~~ A 4 and B 4 of § 33.2-XXX shall inure
768 to the benefit of any creditor of the transportation district or, when applicable, to an agency as
769 therein provided.

770 C. For purposes of this section, the term "liability policy" as it is used in the Virginia
771 Tort Claims Act shall specifically include any program of self-insurance maintained by a district
772 and administered by the ~~Virginia Department of the Treasury's~~ Division of Risk Management.

773 **Drafting note: Technical changes.**

774 Article 7.

775 Planning Process and Procedures.

776 ~~§ 15.2-4527~~ 33.2-XXX. Planning process.

777 A. In performing the duties imposed under ~~§ 15.2-4515 subsections~~ A and B of § 33.2-
778 XXX, the commission shall cooperate with the governing bodies of the counties and cities
779 embraced ~~within~~ by the transportation district and agencies thereof, with the Commonwealth
780 Transportation Board, and with an agency of which members of the district commission are also
781 members, to the end that the plans, decisions₂, and policies for transportation shall be consistent
782 with and shall foster the development and implementation of the general plans and policies of
783 the counties and cities for their orderly growth and development.

784 B. Each commission member shall serve as the liaison between the commission and the
785 body by which he was appointed₂, and those commission members who are also members of an
786 agency shall provide liaison between the district commission and such agency, to the end that
787 the district commission, its component governments, the Commonwealth Transportation Board,
788 and any such agency₇, shall be continuously, comprehensively, and mutually advised of plans,
789 policies, and actions requiring consideration in the planning for transportation and in the
790 development of planned transportation facilities.

791 C. To assure that planning, policy₂, and decision-making are consistent with the
792 development plans for the orderly growth of the counties and cities and coordinated with the
793 plans and programs of the Commonwealth Transportation Board and are based on
794 comprehensive data with respect to current and prospective local conditions, including, ~~without~~
795 ~~limitation~~, land use, economic and population factors, the objectives for future urban
796 development₂, and future travel demands generated by such considerations, the commission may:

797 1. Create, subject to their appointment, technical committees from the personnel of the
798 agencies of the counties and cities and from the Commonwealth Transportation Board
799 concerned with planning, collection₂, and analysis of data relevant to decision-making in the

800 transportation planning process. Appointments to such technical committees, however, are to be
801 made by the governing bodies of the counties and cities and by the Commonwealth
802 Transportation Board, as the case may be; or

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

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

810 **Drafting note: Technical changes.**

811 § ~~15.2-4528~~ 33.2-XXX. Procedures.

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

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

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

818 a. Its members who are also members of an agency, as to the status and progress of the
819 work of such agency, and if the commission deems that such reports are of concern to them,
820 shall fully inform its component governments, committees, and the Commonwealth
821 Transportation Board with respect thereto, as a means of developing the informed views
822 requisite for sound policy-making; and

823 b. Its members, technical and other committees, members of the governing bodies of the
824 component governments, and consultants, presenting and analyzing studies and data on matters
825 affecting the making of policies and decisions on a transportation plan and the implementation
826 thereof.

827 | 3. The objective of the procedures ~~herein~~ specified in this section is to develop
828 | agreement, based on the best available information, among the district commission, the
829 | governing bodies of the component governments, the Commonwealth Transportation Board,₂
830 | and an interstate agency with respect to the various factors ~~which~~ that affect the making of
831 | policies and decisions relating to a transportation plan and the implementation thereof. If any
832 | material disagreements occur in the planning process with respect to objectives and goals, the
833 | evaluation of basic data₂, or the selection of criteria and standards to be applied in the planning
834 | process, the commission shall exert its best efforts to bring about agreement and understanding
835 | on such matters. The commission, in its discretion, may hold hearings in an effort to resolve any
836 | such basic controversies.

837 | 4. Before a transportation plan is adopted, altered, revised₂, or amended by the
838 | commission or by an agency on which it is represented, the commission shall transmit such
839 | proposed plan, alteration, revision₂, or amendment to the governing bodies of the component
840 | governments, to the Commonwealth Transportation Board, and to its technical committees and
841 | shall release to the public information with respect thereto. A copy of the proposed
842 | transportation plan, amendment₂, or revision₇, shall be kept at the commission office and shall be
843 | available for public inspection. Upon ~~thirty~~ 30 days' notice, published once a week for two
844 | successive weeks in one or more newspapers of general circulation within the transportation
845 | district, a public hearing shall be held on the proposed plan, alteration, revision₂, or amendment.
846 | The ~~thirty~~ 30 days' notice period shall begin to run on the first day the notice appears in any
847 | such newspaper. The commission shall consider the evidence submitted and statements and
848 | comments made at such hearings and, if objections in writing to the whole or any part of the
849 | plan are made by the governing body of any component government, or by the Commonwealth
850 | Transportation Board, or if the commission considers any written objection made by any other
851 | person, group₂, or organization to be sufficiently significant, the commission shall reconsider the
852 | plan, alteration, revision₂, or amendment. If, upon reconsideration, the commission agrees with
853 | the objection, then the commission shall make appropriate changes to the proposed plan,

854 alteration, revision₂ or amendment₇; and may adopt them without further hearing. If, upon
855 reconsideration, the commission disagrees with the objection, the commission may adopt the
856 plan, alteration, revision₂ or amendment. No facilities shall be located in and no service
857 rendered, however, within any county or city~~which that~~ does not execute an appropriate
858 agreement with the commission or with an interstate agency as provided in §~~15.2-4521~~ 33.2-
859 XXX; but in such case, the commission shall determine whether the absence of such an
860 agreement so materially and adversely affects the feasibility of the transportation plan as to
861 require its modification or abandonment.

862 **Drafting note: Technical changes.**

863 Article 8.

864 Enlargement of Transportation Districts.

865 §~~15.2-4529~~ 33.2-XXX. Procedure for enlargement.

866 A transportation district may be enlarged to include any additional county₇ or part
867 thereof, or city or part thereof₂ contiguous thereto, upon such terms and conditions, consistent
868 with the provisions of this chapter, as may be agreed upon by the commission and such
869 additional county or city and in conformance with the following procedures. The governing
870 body of the county or city shall adopt an ordinance specifying the area to be enlarged,
871 containing the finding specified in §~~15.2-4504 of this chapter~~ 33.2-XXX and a statement that a
872 contract or agreement between the county or city and the commission₇; specifying the terms and
873 conditions of admittance to the transportation district₇; has been executed. The ordinance, to
874 which shall be attached a certified copy of the contract, shall be filed with the Secretary of the
875 Commonwealth. Upon certification by the Secretary of the Commonwealth to the Tax
876 Commissioner, the commissioner, and~~to~~ the governing bodies of each of the component
877 counties and cities that the ordinance required by this section has been filed and that its terms
878 conform to the requirements of this section, the additional county₇ or part thereof, or city or part
879 thereof, upon the entry of such certification in the minutes of the proceedings of the governing

880 body of such county or city, shall become a component government of the transportation district
881 and part of the transportation district.

882 **Drafting note: Technical changes.**

883 Article 9.

884 Withdrawal from Transportation District.

885 § ~~15.2-4530~~ 33.2-XXX. Resolution or ordinance.

886 A county or city may withdraw from the transportation district by resolution or
887 ordinance, as may be appropriate, adopted by a majority vote of its governing body. The
888 withdrawal of any county or city shall not be effective until the resolution or ordinance of
889 withdrawal is filed with the transportation district commission and with the Secretary of the
890 Commonwealth.

891 **Drafting note: No change.**

892 § ~~15.2-4531~~ 33.2-XXX. Financial obligations.

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

895 **Drafting note: No change.**

896 Article 10.

897 Exemption from Taxation; Tort Liability.

898 § ~~15.2-4532~~ 33.2-XXX. Public purpose; exemption from taxation.

899 It is hereby found, determined, and declared that the creation of any transportation
900 district hereunder and the carrying out of the corporate purposes of any such transportation
901 district is in all respects for the benefit of the people of ~~this~~ the Commonwealth and is a public
902 purpose and that the transportation district and the commission will be performing an essential
903 governmental function in the exercise of the powers conferred by this chapter. Accordingly, the
904 transportation district shall not be required to pay taxes or assessments upon any of the property
905 acquired by it or under its jurisdiction, control, possession, or supervision or upon its activities
906 in the operation and maintenance of any transportation facilities or upon any revenues

907 therefrom, and the property and the income derived therefrom shall be exempt from all state,
908 municipal, and local taxation. This exemption shall include, ~~without limitation,~~ all motor vehicle
909 license fees, motor vehicle sales and use taxes, retail sales and use taxes, and motor fuel taxes.
910 The governing body of any political subdivision within a transportation district may refund in
911 whole or in part any payments for taxes or license fees or abate in whole or in part any
912 assessments for taxes or license fees on any property exempt from taxation or license fees under
913 this section that were assessed and levied prior to the acquisition of any transportation facilities
914 by a transportation district.

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

917 ~~§ 15.2-4533~~ 33.2-XXX. Liability for torts.

918 Every district shall be liable for its torts and those of its officers, employees, and agents
919 committed in the conduct of any proprietary function but shall not be liable for any torts
920 occurring in the performance of a governmental function. However, this section shall not apply
921 to a transportation district subject to the provisions of the Virginia Tort Claims Act (§ 8.01-
922 195.1 et seq.).

923 **Drafting note: Technical change.**

924 Article 11.

925 Construction of Chapter.

926 ~~§ 15.2-4534~~ 33.2-XXX. Chapter liberally construed.

927 This chapter, being necessary for the welfare of the Commonwealth and its inhabitants,
928 shall be liberally construed to effect the purposes thereof.

929 **Drafting note: Technical change.**

930 #

CODE COMMISSION PROPOSED WORK PLAN

Items for Discussion

NEW

- **Title recodification candidates:**
 - Top picks--
 - Title 23. Educational Institutions
 - Title 36. Housing
 - Other-- Titles 8.01 (Civil Remedies & Procedure), 22.1 (Education), 40.1 (Labor & Employment), 45.1 (Mines & Mining), 55 (Property and Conveyances)
- **Code of Virginia volume cleanup project** - *Types of changes includes style, format, cross reference, name/title, etc. Volumes selected for cleanup will be those volumes being considered for replacement.*
- **Obsolete laws** - *Section 30-151 requires review of acts and statutes to identify obsolete provisions no less than every 4 years. The Code Commission conducts this study every other year and makes recommendations, as appropriate, to the General Assembly through legislation in even-numbered years.*
- **Administrative Law Advisory Committee studies** - *ALAC meets May 23 to discuss its work plan, and topics for study are expected to be presented to the Code Commission for approval later this spring or summer.*

CONTINUING

- **Recodification of Title 33.1, Highways, Bridges and Ferries** (Staff - Alan Wambold and Nicole Brenner) - *Scheduled for completion this year. Legislation is expected to be introduced at the 2014 General Assembly Session.*
- **Model State Administrative Procedures Act** - *Adopted by the Uniform Law Commission in 2010 (referred to ALAC to compare Virginia's APA with 2010 Model APA. Final report is expected in 2013).*
- **Virginia Code Commission Regulations Implementing the Virginia Register Act** (Staff - Karen Perrine and Jane Chaffin) - *Section 2.2-4104 authorizes the Code Commission to promulgate regulations (i) with respect to the nature and content of the Virginia Administrative Code and (ii) supplementing or limiting the duties of agencies required to file regulations under the Virginia Register Act. A work group of state agency regulatory coordinators and staff will meet during the summer to identify obsolete language and clarify existing provisions. Staff will present proposed amendments late summer or fall.*

MONITORING

- **Study of Code provisions requiring delivery of notices by U.S. postal carrier** (Staff - Lisa Wallmeyer) - *Study concerning whether to add commercial delivery service as option in certain code provisions requiring delivery of notices by U.S. postal service. Code Commission requested assistance from Boyd-Graves Conference and Supreme Court.*
 - *Boyd-Graves Conference agreed to review the notice provisions in Titles 8.01, 11, 20, 25.1, 26, 43, 50, 55, and 64.1 as part of its 2013 work plan*
 - *Supreme Court is putting together a work group to review the notice provisions in Titles 16.1, 17.1, 18.2, and 19.2.*
 - *Other notice provisions will be reviewed on a case-by-case basis as part of a title recodification*