

VIRGINIA CODE COMMISSION

DRAFT

June 11, 2013

Monday, May 20, 2013 - 10 a.m.
General Assembly Building, 6th Floor
Speaker's Conference Room
Richmond, Virginia 23219

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

4 **MEMBERS ABSENT:** Charles S. Sharp

5 **STAFF PRESENT:** Jane Chaffin, Karen Perrine, Lilli Hausenfluck, Viqui Wagner, Andrew
6 Kubincanek, Nicole Brenner, Alan Wambold

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

8 **Approval of minutes:** Delegate LeMunyon made a motion, seconded by Mr. Palmore, to
9 approve the minutes of the January 7, 2013, meeting of the Virginia Code Commission. The
10 motion carried and the minutes were approved as printed and distributed to the members of the
11 Code Commission.

12 **2013 legislative update.** Jane Chaffin advised that both bills recommended by the Code
13 Commission had passed: Senate Bill 1043 (Chapter 629) extended the duration of emergency
14 regulations from 12 to 18 months and Senate Bill 1052 (Chapter 784) made technical corrections
15 to the Title 64.1 recodification bill (Chapter 614 of the 2012 Acts of the Assembly) by
16 reinserting language inadvertently omitted from that legislation.

17 Senator Edwards explained that his bill, Senate Bill 944, regarding appeals of administrative
18 decisions had passed. He thanked the Office of the Attorney General, especially Elizabeth
19 Andrews, for its assistance with the bill.

20 **Recodification of Title 33.1: Highways, Bridges and Ferries**

21 **Organization plan and naming conventions:** Nicole Brenner reviewed the organization outline
22 and noted that significant reorganization had occurred since the Code Commission last reviewed
23 the outline. The title has now been divided into four subtitles: Subtitle I, General Provisions and
24 Transportation Entities; Subtitle II, Modes of Transportation: Highways, Bridges, Ferries, Rail,
25 and Public Transportation; Subtitle III, Transportation Funding; and Subtitle IV, Local and
26 Regional Transportation.

27 Ms. Brenner reviewed the proposed schedule for reviewing specific chapters. The Highway
28 Maintenance and Operating Fund will be added and other changes made to reflect changes made
29 by the 2013 Session of the General Assembly.

30 Regarding the Virginia Coalfield Coalition Authority (VCCA), Ms. Brenner advised that she
31 researched this authority and was unable to find any evidence that it ever existed. The Secretary
32 of the Commonwealth reported that no appointments were ever made to this authority. Ms.
33 Brenner stated that there is now a Coalfield Development Authority, which may have superseded
34 VCCA. Upon motion of Senator Calhoun and seconded by Delegate LeMunyon, the Code
35 Commission unanimously voted to repeal the VCCA.

36 The Code Commission discussed the placement of the Washington Metropolitan Area Transit
37 Regulation Compact (assigned § 56-529 et seq. in the current Code of Virginia, but not set out in
38 Title 56; only set out in the Compacts volume) and the Washington Area Metropolitan Area

39 Transit Authority (WAMATA) Compact (not assigned a code section number; only set out in the
40 Compacts volume). After discussion, the Code Commission determined to assign a section
41 number in new Title 33.2, not Title 56, to the WAMATA compact and cross-reference its
42 location in the Compacts volume.

43 Upon motion of Mr. Miller and seconded by Delegate LeMunyon, the Code Commission
44 unanimously approved the organization plan as presented by Ms. Brenner. Delegate LeMunyon
45 indicated that the Northern Virginia Transportation Authority has become active and he will
46 advise the authority of this decision.

47 As a separate matter, the Code Commission discussed its policy on how compacts are referenced
48 and placed in the Code of Virginia or the Compacts volume. Upon motion of Delegate
49 LeMunyon and properly seconded, the Code Commission unanimously agreed that its new
50 policy regarding compacts would be that every compact will have a Code of Virginia section
51 number, which may simply reference the Compacts volume or which may set out the entire
52 compact. In response to a concern previously raised concerning whether changing code section
53 numbers in a compact is tantamount to changing the compact, Ms. Brenner stated that she
54 concluded from her research that this is not the case and that other states to the compact have
55 changed the numbers.

56 Regarding naming conventions, Ms. Brenner directed the Code Commission's attention to the
57 handout "Conventions for proposed Title 33.2. Highways and Other Surface Transportation
58 Systems." Ms. Brenner (i) reviewed the policy previously adopted by the Code Commission at
59 its November 8, 2012, meeting regarding discontinuance of the use of "and/or" and how this
60 phrase will be replaced; (ii) advised that based on § 1-227 of the Code of Virginia, a word in the
61 singular includes the plural and vice versa; and (iii) indicated that new Title 33.2 will not include
62 short titles, such as the one currently found in § 15.2-4500 of the Code of Virginia, based § 1-
63 244 of the Code of Virginia.

64 Abandonment and Discontinuance of Highways and Roads (part of Subtitle II): Alan Wambold
65 and Ms. Brenner reviewed the draft on abandonment and discontinuance of highways and roads.

- 66 • Mr. Wambold reviewed the use of the term "highways" as described in the drafting note
67 under the chapter heading on page 1. The Commission asked staff to reword the drafting note
68 on lines 16-17 to clarify that the terms "highways," "roads," "public landings," and "railroad
69 crossings" are entities that can be abandoned, not that the terms will not be used.
- 70 • Page 2, line 38 (§ 33.1-144) and page 19, line 506 (§ 33.1-154): The Code Commission
71 approved the deletion of the phrase "heretofore or hereafter." Ms. Brenner explained that the
72 deletion of this phrase is consistent with action taken in the Title 6.1 and Title 64.1
73 recodifications.
- 74 • Page 5, lines 110, 112, and 116 (§ 33.1-145) and page 7, line 173 (§ 33.1-146): As the use of
75 "order" may be outdated for local government, Ms. Brenner suggested using "ordinances,
76 resolutions, and motions" as used in § 15.2-1425 of the Code of Virginia. However, the
77 Virginia Municipal League and the Virginia Association of Counties indicated that
78 "resolution" may be the most appropriate word. Senator Calhoun explained that, in some
79 localities, an ordinance is used and not a resolution, so a more appropriate replacement for

80 "order" would be "resolution or ordinance." The Code Commission deferred action until staff
81 obtains input from the Fairfax County Attorney on this issue.

- 82 • Page 21, line 547 (§ 33.1-157): The Code Commission voted to delete "of the county" as it
83 was unnecessary due to the addition of the definition "governing body."

84 Transportation Act of 1964 (part of Subtitle IV): Mr. Wambold and Ms. Brenner reviewed the
85 draft Transportation Act of 1964.

- 86 • Page 1, lines 21-36 (§ 15.2-4501): Mr. Miller inquired if the declaration of policy was still
87 applicable and accurate. Ms. Brenner stated that the language was not examined for that
88 purpose and indicated that the work group approved retaining this section without change.
89 This issue brought up discussion of the Code Commission's general policy to not set out
90 policy and purpose in the Code. Mr. Palmore noted that an objection was made last year to
91 remove another codified policy statement because that particular policy contained some
92 substantive items, and there was concern about removing them. The Code Commission asked
93 staff to review this policy from the standpoint of whether it can be deleted and report back at
94 a future meeting.

- 95 • Page 3, lines 54-58 (§ 15.2-4502): Mr. Russell noted that the change in the definition of
96 "metropolitan area" is substantive as it gives the federal government the ability to
97 prospectively change this definition. As of today, the definition is set as defined in 1964, but
98 the change allows the definition to change as the term is changed by the federal government.
99 After discussion, the Code Commission directed staff to expand the drafter's note to highlight
100 this change and to explain the change in the executive summary of the recodification report.

- 101 • Pages 6-7, lines 148-171 (§ 15.2-4503.1): The Code Commission requested that staff rework
102 the language and move the provisions regarding the Northern Virginia Transportation
103 District and Commission to a new article (maybe after Article 3), including all exceptions.

- 104 • Pages 9-11, lines 228-277 (§ 15.2-4507 B): The Code Commission requested that staff move
105 this subsection, which appears to apply only to the Northern Virginia Transportation
106 Commission, to the new article based on § 15.2-4503.1 (lines 148-171).

- 107 • Page 14, lines 360-363 and pages 15-16, lines 388-406 (§ 15.2-4515 A 1 and B): Senator
108 Calhoun indicated that lines 360-363 conflict with line 388, etc., and that the Northern
109 Virginia Transportation Commission does not prepare a transportation plan. Ms. Brenner will
110 review these provisions and report back to the Code Commission.

- 111 • Page 17, lines 435-447 (§ 15.2-4515 C): Senator Calhoun stated that this subsection should
112 be deciphered and rewritten to clearly name the entity to which the subsection applies. Mr.
113 Miller agreed that the recodification report should specify the entity to which it is referring
114 (instead of describing the entity) and explain the replacement of the descriptive language
115 with specific language in the executive summary. Further, he requested that staff alert the
116 Code Commission if a description can be replaced by a locality or entity in every place this
117 type of change occurs. Ms. Brenner will take the issue back to the work group for review and
118 bring language back to the Commission at a future meeting.

- 119 • Pages 31-33, lines 811- 861 (§ 15.2-4528): Senator Calhoun requested that the work group
120 review this section as possibly obsolete because the Northern Virginia Transportation

121 Commission (NVTC) does not carry out the planning function (it has been taken over by the
122 Northern Virginia Transportation Authority). If not, then an exception should be added for
123 the NVTC at the beginning of the article.

124 **Terminology question:** Ms. Brenner referred to a handout showing an example of the deletion of
125 the phrase "heretofore or hereafter" from a prior recodification. This item was discussed earlier
126 in the meeting during the review of Abandonment and Discontinuance of Highways and Roads.

127 **2013-2014 proposed work plan:** Jane Chaffin reviewed the Code Commission proposed work
128 plan. The first item for discussion is deciding on the next title that the Code Commission should
129 undertake. Mr. Tavenner consulted with Division of Legislative Services managers and
130 suggested that the Code Commission consider recodifying Title 23 (Educational Institutions) as a
131 two-year project followed by Title 36 (Housing). Neither title has been recodified. Other titles
132 presented as future recodification candidates include Titles 8.01 (Civil Remedies and Procedure),
133 22.1 (Education), 40.1 (Labor and Employment), 45.1 (Mines and Mining), and 55 (Property and
134 Conveyances).

135 Mr. Moncure suggested that the recodification of Title 23 would be more complicated than many
136 might believe, especially creating an omnibus authority for the universities and incorporating
137 2013 legislation geared to a specific university. Mr. Russell reminded members of pending court
138 cases in which the Attorney General's office is involved. Mr. Moncure also indicated that
139 substantive changes are inevitable if the title is recodified.

140 Delegate LeMunyon recommended that the Code Commission seek public comment regarding
141 which titles to recodify. After discussion, the Code Commission decided to publish the notice in
142 the Virginia Register of Regulations and on the Code Commission website. Also, staff will
143 follow up on Mr. Palmore's suggestion to submit the notice to Virginia Lawyer's Weekly. The
144 decision regarding the next recodification will be delayed until the next meeting.

145 Upon motion of Senator McDougle and properly seconded, the Code Commission unanimously
146 voted to publish a notice seeking public comment on the recodification plan and to delay the vote
147 on the entire work plan until the next meeting.

148 Mr. Miller requested that the work plan be amended to include contract expirations as any occur.

149 **Other business:** Jane Chaffin introduced Andrew Kubincanek, who is replacing Elizabeth Palen
150 as staff support to the Administrative Law Advisory Committee.

151 **Public comment; adjournment:** The Chair opened the floor for public comment. As there was
152 no public comment and no further business to discuss, the meeting adjourned at 12:50 p.m.

CODE COMMISSION PROPOSED WORK PLAN

Items for Discussion

NEW

- **Title recodification candidates:**
 - Title 23. Educational Institutions (2014-2015)
 - Title 36. Housing (2016-2017)
 - 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.*

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*

CONTRACT EXPIRATION DATES:

- Code of Virginia (LexisNexis): 7-year contract expires August 31, 2016.
- Virginia Administrative Code (West) 7-year contract expires April 30, 2020.
- Virginia Register of Regulations (LexisNexis) 2-year contract expires June 2, 2014.
- Code of Virginia Publishers Forum Access Agreement: 2003 agreement continued annually by Memorandum of Understanding.

The VLW Blog

- [front page](#)
- [About the VLW Blog](#)
- [RSS](#)



← [Circuit court considering protections in ‘debt buyer’ cases](#) [Bar groups prepare to evaluate judge candidates](#) →

Speaking in Code: Code Commission seeks comments

May 21st, 2013 · [No Comments](#) · [Uncategorized](#)

Lawyers may remember early-career advice to always start with the statutes. They can put that reflex to check the Virginia Code to good use by checking in with the Virginia Code Commission.

The commission, which is responsible for publishing and maintaining the Code of Virginia, is inviting feedback from the bar on setting coming priorities for its ongoing work of updating the statute books.

The “code talkers” are considering taking up [Title 23](#), Educational Institutions, as the commission’s next recodification project to begin in 2014. Following that Title, the commission proposes to recodify [Title 36](#), Housing, in 2016.

Neither title has been recodified since its enactment as part of the current Code of Virginia of 1950.

Generally, the commission selects a title to recodify based on the need to logically reorganize content, modernize language, and reflect current Code style and numbering schemes. To the extent practical, the commission avoids making substantive changes to the statutory text. In the event a substantive change is made, the change is highlighted and explained in the final report.

Other titles currently under consideration for future recodification include Titles 8.01 (Civil Remedies and Procedure), 22.1 (Education), 40.1 (Labor and Employment), 45.1 (Mines and Mining), and 55 (Property and Conveyances).

Presently, the commission is working on [Title 33.1](#), Highways, Bridges and Ferries, assisted by an advisory panel of practitioners experienced in this area. Work on proposed Title 33.2, Highways and Other Surface Transportation Systems, should be finalized by the end of 2013 with resulting legislation introduced at the 2014 Session of the General Assembly.

More information on title recodifications can be found on the commission’s [website](#).

Comments on proposed projects and priorities may be sent to Jane Chaffin at jchaffin@dls.virginia.gov or General Assembly Building, 2nd Floor, 201 North Ninth Street, Richmond, VA 23219, by June 18, 2013.

–Deborah Elkins

Tags:

0 responses so far ↓

Commonwealth of Virginia			
Christopher Nolen, Chair			General Assembly Building 910 Capitol Street, Second Floor Richmond, Virginia 23219 (Phone) 804-786-3591 (Fax) 804-692-0625 akubincanek@dls.virginia.gov http://codecommission.dls.virginia.gov/alac/alac.shtml
Andrew Kubincanek, Program Coordinator			
Administrative Law Advisory Committee			

2013 Work Plan

CONTINUING

- **Regulation Adoption Date** - ALAC will convene a work group to address the issue of what constitutes the adoption of a regulation for the purposes of appealing the regulation. In 2012, Elizabeth Andrews presented ALAC with several cases where there was confusion over when adoption takes place. The members of the committee agreed that this was a serious issue from a practitioner's standpoint.
 - The work group will be led by Elizabeth Andrews and will consist of Cindy Berndt, Roger L. Chaffe, Karen Perrine, and Brooks Smith.
- **Hearing Officer Deskbook Updates** - ALAC will convene a work group to review the Hearing Officer Deskbook and consider if any further updates or changes are necessary.
 - The work group will be led by Eric M. Page and will consist of Katya Herndon, Mike Quinan, Alexander F. Skipan, Jr, and Brooks Smith.
- **Model State Administrative Procedure Act Recommendations** - ALAC will finalize recommendations from the Model State Administrative Procedure Act regulatory and judicial work groups for presentation to the Code Commission.

NEW

- **Guidance Document Accessibility** - Following the completion of continuing business, ALAC will discuss whether or not more can be done to increase the accessibility of guidance documents. Currently, Executive Order 14 mandates that guidance documents be posted to the Virginia Regulatory Town Hall website. A listing of Guidance documents is also published annually in the Virginia Register.

Christopher R. Nolen, Chair
 Elizabeth Andrews
 Cindy Berndt
 Roger L. Chaffe

Jeffrey S. Gore
 Katya Herndon
 Thomas A. Lisk
 Eric M. Page

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

Commonwealth of Virginia

Christopher Nolen, Chair



Andrew Kubincanek, Program
Coordinator

General Assembly Building
910 Capitol Street, Second Floor
Richmond, Virginia 23219
(Phone) 804-786-3591
(Fax) 804-692-0625
akubincanek@dls.virginia.gov
<http://codecommission.dls.virginia.gov/alac/alac.htm>

Administrative Law Advisory Committee

2013-2014 Budget

Full and Sub-Committee Meetings and Related Expenses	\$4,000.00
Consultant Expenses/Intern Expenses	\$10,000.00
Conferences and Training	\$4,600.00
Publications and Supplies	\$1,400.00
<hr/>	
Total Expenses	\$20,000.00

Christopher R. Nolen, Chair
Elizabeth Andrews
Cindy Berndt
Roger L. Chaffe

Jeffrey S. Gore
Katya Herndon
Thomas A. Lisk
Eric M. Page

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

VIRGINIA ADMINISTRATIVE CODE

Titles 1 to 6



VIRGINIA ADMINISTRATIVE CODE—2013

Titles
1 to 6

XXXXXXXX



THOMSON REUTERS
WESTLAW

VIRGINIA ADMINISTRATIVE CODE

Titles 1 to 6



2013 Cumulative Supplementary Pamphlet

This 2013 supplementary pamphlet replaces the 2013 Spring Supplements to the main volumes.

THOMSON REUTERS
WESTLAW

VIRGINIA ADMINISTRATIVE CODE—2013

Titles
1 to 6

1

XXXXXXXX





Jane Chaffin <jchaffin@dls.virginia.gov>

[VAC Forum:] 2013 Fall Recompilations

mark.petty <mark.petty@thomsonreuters.com>

Tue, Jun 11, 2013 at 2:30 PM

Reply-To: vac-forum@dls.virginia.gov

To: vac-forum@dls.virginia.gov

Good afternoon, everyone!

We've looked at the volumes to be recompiled and have gotten a breakdown of them. We wanted to share the breakdown with you.

2013 Fall Recompilations:

Volume 1: Title 1 to 2 VAC 5-480 Approx. 796 text pages

Volume 2: 2 VAC 5-490 to end of Title 3 Approx. 744 text pages

Volume 3: 4 VAC 3-10 to 4 VAC 20-670 Approx. 802 text pages

Volume 4: 4 VAC 20-680 to 4 VAC 25-130 Approx. 958 text pages

Volume 5: 4 VAC 25-140 to end of Title 4 Approx. 679 text pages

We hope this meets with your approval.

Mark

--
You received this message because you are subscribed to the Google Groups "Virginia Administrative Code Forum" group.

To unsubscribe from this group and stop receiving emails from it, send an email to vac-forum+unsubscribe@dls.virginia.gov.

To post to this group, send email to vac-forum@dls.virginia.gov.

Visit this group at <http://groups.google.com/a/dls.virginia.gov/group/vac-forum/?hl=en>.

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
	Article 1	Eminent Domain and Damages
	Article 2	Acquisition of Land Used as Cemeteries
Chapter		Highway Construction Contracts; Highway Contractors Association
	Article 1	Highway Construction Contracts, Limitations on Suits, and Adjustment of Claims
	Article 2	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		Transportation Development and Revenue Bond Act
Chapter		Public-Private Transportation Act of 1995 (§ 56-556 et seq.)

**SUBTITLE IV.
LOCAL AND 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		Washington Metropolitan Area Transit Authority (Title 56)
Chapter		Metropolitan Planning Organizations
Chapter		Virginia Coalfield Coalition Authority

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 XX.

EMINENT DOMAIN.

Article ~~7~~ 1.

Eminent Domain and Damages.

Drafting note: Existing Article 7 of Chapter 1 of Title 33.1 is retained as Article 1 of Chapter X of proposed Title 33.2 on Eminent Domain and Damages.

§ 33.2-xxx. Definitions.

As used in this article unless the context clearly indicates otherwise:

"Certificate" means an instrument that, when recorded in the office of the clerk of the circuit court wherein condemnation proceedings are pending or are to be instituted by the Commissioner of Highways, terminates the interest or estate of the owner of the property described therein and vests defeasible title to such property or interest or estate of the owner in the Commonwealth. "Certificate" includes a certificate of deposit and a certificate of take.

"Certificate of deposit" means a certificate issued by the Commissioner of Highways and countersigned by the State Treasurer, stating that any sum or sums designated therein shall be paid pursuant to the order of the court, and which is filed by the Commissioner of Highways with the court wherein condemnation proceedings are pending or are to be instituted in lieu of the payment of funds into court, as provided in subdivision A 2 of § 33.2-xxx [33.1-120].

"Certificate of take" means a certificate recorded by the Commissioner of Highways with the court wherein condemnation proceedings are pending or are to be instituted, in connection with which the Commissioner of Highways has deposited funds with the court as provided in subdivision A 1 of § 33.2-xxx [33.1-120].

"Owner" means any person owning land, buildings, structures, or improvements upon land where such ownership is of record in the land records of the clerk's office of the circuit court of the city or county where the property is located. Owner does not include trustees or beneficiaries under a deed of trust, any person with a security interest in the property, or any

28 person with a judgment or lien against the property. In proceedings instituted by the
29 Commissioner of Highways under Title 25.1 or this title, owner also includes persons owning
30 structures or improvements for which an outdoor advertising permit has been issued by the
31 Commissioner of Highways pursuant to § 33.2-xxx (§ 33.1-360). This definition of owner shall
32 not alter in any way the valuation of such land, buildings, structures or improvements under
33 existing law.

34 "Public highway" means highway, road, or street; and when applicable, the term "public
35 highway" also includes bridge, ferry, causeway, landing or wharf.

36 **Drafting note: A definitions section is added at the beginning of the chapter which**
37 **includes definitions from existing §§ 33.1-89 and 33.1-120.**

38 ~~§ 33.1-89, 33.2-xxx.~~ Power to acquire lands, etc., ~~by purchase, gift or eminent domain;~~
39 conveyance to municipality after acquisition; property owners to be informed and briefed.

40 A. The Commissioner of Highways is ~~hereby~~ vested with the power to acquire by
41 purchase, gift, or power of eminent domain such lands, structures, rights-of-way, franchises,
42 easements, and other interest in lands, including lands under water and riparian rights, of any
43 person, association, partnership, corporation, or municipality or political subdivision, deemed ~~to~~
44 ~~be~~ necessary for the construction, reconstruction, alteration, maintenance, and repair of the
45 public highways of the Commonwealth and for these purposes and all other purposes incidental
46 thereto may condemn property in fee simple and rights-of-way of such width and on such routes
47 and grades and locations as the Commissioner of Highways may deem requisite and suitable,
48 including locations for permanent, temporary, continuous, periodical, or future use; and rights or
49 easements incidental thereto and lands, quarries, and locations, with rights of ingress and egress,
50 containing gravel, clay, sand, stone, rock, timber, and any other road materials deemed useful or
51 necessary in carrying out the purposes ~~aforsaid of this section.~~ ~~For the purpose of this article~~
52 ~~"public highway" means highway, road and street; and when applicable, the term "public~~
53 ~~highway" also includes bridge, ferry, causeway, landing and wharf.~~

54 B. The Commissioner of Highways is authorized to exercise the ~~above~~ power provided
55 under subsection A within municipalities on projects ~~which that~~ are constructed with state or
56 federal participation, if requested by the municipality concerned. Whenever the Commissioner
57 of Highways has acquired property pursuant to a request of the municipality, he shall convey the
58 title so acquired to the municipality, except that rights-of-way or easements acquired for the
59 relocation of a railroad, public utility company, or public service corporation or company,
60 another political subdivision, or a cable television company in connection with ~~said such~~
61 projects shall be conveyed to that entity in accordance with § ~~33.1-96~~ 33.2-XXX. The authority
62 for such conveyance shall apply to acquisitions made by the Commissioner of Highways
63 pursuant to previous requests as well as any subsequent request.

64 C. Any offer by the Commissioner of Highways to a property owner with respect to
65 payment of compensation for the prospective taking of property and damage to property not
66 taken incident to the purposes of this section shall separately state (i) the property to be taken
67 and the amount of compensation offered therefor and (ii) the nature of the prospective damage
68 or damages and the amount of compensation offered for each such prospective damage. The
69 amount of the offer shall not be less than the amount of the approved appraisal of the fair market
70 value of such property, in accordance with the provisions of § 25.1-417. Any such appraisal
71 used by the Commissioner of Highways as the basis for an offer shall be prepared by a real
72 estate appraiser licensed in accordance with Chapter 20.1 (§ 54.1-2009 et seq.) of Title 54.1.

73 D. The Commissioner of Highways shall also provide to a property owner a copy of any
74 report of status of title prepared in connection with such acquisition, if prepared pursuant to
75 subsection D of § 25.1-204.

76 E. In negotiating with a property owner with respect to payment for prospective damage
77 to property not taken incident to the purposes of this section, the Commissioner of Highways
78 shall ensure that such property owner or his authorized representative is properly informed as to
79 the type and amount of foreseeable damage ~~and/or or~~ enhancement. Adequate briefing includes:
80 (i) the giving of plats and profiles of the project, showing cuts and fills, together with elevations

81 and grades; (ii) explanation, in lay terms, of all proposed changes in profile, elevation, and grade
82 of the highway and entrances, including the elevations of proposed pavement and shoulders,
83 both center and edges, with relation to the present pavement, and approximate grade of
84 entrances to the property.

85 F. Any option or deed executed by the property owner shall contain a statement that the
86 plans as they affect his property have been fully explained. However, the requirements of this
87 section with respect to information and briefing and the acknowledgment thereof in options and
88 deeds shall in no way be construed to affect the validity of any conveyance or, to create any
89 right to compensation, or to limit the ~~Commissioner's~~ authority of the Commissioner of
90 Highways to reasonably control the use of public highways so as to promote the public health,
91 safety, and welfare.

92 ~~G. For the purposes of this article, "owner" means any person owning land, buildings,~~
93 ~~structures or improvements upon land where such ownership is of record in the land records of~~
94 ~~the clerk's office of the circuit court of the city or county where the property is located. Owner~~
95 ~~shall not include trustees or beneficiaries under a deed of trust, any person with a security~~
96 ~~interest in the property, or any person with a judgment or lien against the property. In~~
97 ~~proceedings instituted by the Commissioner of Highways under Title 25.1 or this title, owner~~
98 ~~also includes persons owning structures or improvements for which an outdoor advertising~~
99 ~~permit has been issued by the Commissioner of Highways pursuant to § 33.1-360. This~~
100 ~~definition of owner shall not alter in any way the valuation of such land, buildings, structures or~~
101 ~~improvements under existing law.~~

102 **Drafting note: Technical changes are made including moving definitions**
103 **throughout the article to the beginning of this section.**

104 § ~~33.1-89.1~~ 33.2-xxx. Limitation on power of eminent domain.

105 No property that is within an agricultural and forestal district as provided by the
106 Agricultural and Forestal Districts Act (§ 15.2-4300 et seq.) shall be condemned by the
107 Commissioner of Highways except in accordance with § 15.2-4313.

108 **Drafting note: Technical changes.**

109 § ~~33.1-89.2~~ 33.2-xxx. Additional power to acquire lands, etc., by purchase, gift, or
110 eminent domain.

111 The Commissioner of Highways may use the powers granted in this title to acquire
112 needed property interests for purposes set out in Chapter ~~10.1 XXX~~ (§ ~~33.1-391.1~~ 33.2-XXX et
113 seq.) ~~of this title~~. Whenever the term "highway purpose ~~or purposes~~," "highway project," or
114 "highway construction" appears in this title, it means "highway, passenger and freight rail, or
115 public transportation purposes."

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

117 § ~~33.1-90~~ 33.2-xxx. Acquisition of real property ~~which that~~ may be needed for
118 transportation projects; sale of certain real property.

119 A. When the Commissioner of Highways determines that any real property will be
120 required in connection with the construction of a transportation project, or project as defined in
121 § ~~33.1-268~~ 33.2-XXX, within a period not exceeding ~~twelve~~ 12 years for the Interstate ~~Highway~~
122 System or ~~ten~~ 10 years for any other highway system or transportation project from the time of
123 such determination, and that it would be advantageous to the Commonwealth to acquire such
124 real property, he may proceed to do so. The Commissioner of Highways may lease any real
125 property so acquired to the owner from whom such real property is acquired; if requested by
126 him, and if not so requested, to another person upon such terms and conditions as in the
127 judgment of the Commissioner of Highways may be in the public interest. If the transportation
128 project contemplated, or project as defined in § ~~33.1-268~~ 33.2-XXX, has not been let to contract
129 or construction has not commenced within a period of ~~twenty~~ 20 years from the date of the
130 acquisition of such property, and a need for the use of such property has not been determined for
131 any alternative transportation project, then upon written demand of the owner ~~or owners~~, or their
132 heirs or assigns, that is received (i) within ~~ninety~~ 90 days from the expiration of such ~~twenty-~~
133 ~~year~~ 20-year period or such extension as provided for in this section or (ii) within ~~thirty~~ 30 days
134 from publication of a notice of the intent of the Commissioner of Highways to dispose of such

135 property in a newspaper of general circulation in the political subdivision in which the property
136 is located ~~of a notice of the Commissioner's intent to dispose of such property~~ and the
137 Commissioner of Highways shall notify to the extent practical, the last known ~~owner(s)~~ owner
138 of said property by certified mail, then such property shall be reconveyed by the Commonwealth
139 ~~of Virginia~~ to such owner ~~or owners~~, or their heirs or assigns, upon repayment of the original
140 purchase price, without interest. ~~Unless the reconveyance is concluded no later than six months~~
141 ~~If the reconveyance is not concluded within six months~~ from ~~the~~ receipt by the Commissioner of
142 Highways of a written demand, the reconveyance opportunity shall lapse. However, the ~~twenty-~~
143 ~~year~~ 20-year limit established by this section within which the Department must let to contract
144 or begin construction in order to avoid reconveyance shall be extended by the number of days of
145 delay ~~occasioned~~ caused by litigation involving the project or by the failure of the
146 Commonwealth to receive anticipated federal funds for such project. The ~~twenty-year~~ 20-year
147 limit may also be extended in those instances ~~when in which~~ a project is included in the ~~six-year~~
148 ~~improvement program~~ Six-Year Improvement Program of the ~~Commonwealth Transportation~~
149 Board or the ~~six-year improvement program~~ Six-Year Improvement Program for secondary
150 ~~roads~~ highways prepared by the county boards of supervisors and ~~where in which~~ steps have
151 been taken to move forward. No such reconveyance shall be required for rights-of-way acquired
152 for future transportation improvements at the request of local governing bodies; or for rights-of-
153 way acquired for state construction designed to provide future additional lanes or other
154 enhancements to existing transportation facilities.

155 B. If any real property acquired under this article for use in connection with a
156 transportation project is subsequently offered for sale by the Department and such property is
157 suitable for independent development, the Department shall offer the property for sale at fair
158 market value to the owner from whom it was acquired; before such property is offered for sale
159 to any other person. The Commissioner of Highways shall notify, to the extent practicable, the
160 last known owner of such property by certified mail, and the owner shall have ~~thirty~~ 30 days
161 from the date of such notice to advise the Commissioner of Highways of his interest in

162 purchasing the property. ~~The If the~~ purchase of the property by the owner from ~~which whom~~ it
163 was acquired is ~~to be not~~ concluded ~~no later than~~ within six months from ~~the~~ receipt by the
164 Commissioner of Highways of a written notice, or the purchase opportunity shall lapse. The
165 provisions of this subsection shall apply only to property to which the provisions of subsection
166 A ~~of this section~~ do not apply.

167 C. Subsection B ~~of this section~~ shall not apply to Department projects carried out in
168 cooperation with the United States Army Corps of Engineers as part of a nonstructural flood
169 control project. No property acquired by the Commonwealth under this article in connection
170 with such a project shall subsequently be offered for sale by the Commonwealth, but, if such
171 property is no longer needed by the Commonwealth for such project, such property shall be
172 conveyed to the locality in which such project is located and used in connection with the
173 redevelopment. Should property not be used for economic development, property ~~will~~ shall
174 revert to the Commonwealth and ~~shall~~ may be used for any purposes deemed appropriate,
175 including resale.

176 **Drafting note: Technical changes are made including the rewording of unclear and**
177 **outdated language.**

178 ~~§ 33.1-90.1.~~

179 **Drafting note: Repealed by Acts 1992, c. 108.**

180 ~~§ 33.1-90.2 33.2-xxx. Same; reconveyance~~ Reconveyance where property deemed
181 suitable for mass transit purposes.

182 ~~In the event If~~ any real property ~~which that~~, under the provisions of § ~~33.1-90 33.2-~~
183 ~~XXX~~, is or may become eligible for reconveyance ~~and~~ is deemed suitable for the mass transit
184 purposes of a public agency, authority, instrumentality, or public service corporation or
185 company, and such entity has submitted tentative plans to the Commissioner of Highways for a
186 mass transit facility utilizing such real property, or portions thereof, and, prior to the eligibility
187 of that real property for reconveyance under ~~§ 33.1-90 et seq. this article~~, the Commissioner of
188 Highways has approved the use of such real property for mass transit purposes, such real estate

189 shall not be eligible for reconveyance under those sections. Upon the formulation of final plans
190 for the facility, the Commissioner of Highways is authorized to enter into an agreement with
191 any ~~of the above-described entities~~ such entity for the conveyance of the property to such entity.
192 Any property or portions thereof not necessary for the mass transit facility shall become eligible
193 for reconveyance under the provisions of § ~~33.1-90~~ 33.2-XXX upon a determination of the final
194 plans for the facility. Such agreement shall provide for the payment to the Commonwealth of an
195 amount equal to that expended by the Commonwealth in the acquisition of such real property,
196 including proportionate administrative costs and costs under the federal Uniform Relocation
197 Assistance and Real Property Acquisition Policies Act of 1970, as amended. Upon payment of
198 the agreed consideration, the Commissioner of Highways shall convey the specified property to
199 the facility. However, if construction of such planned facilities is not commenced within ~~ten~~ 10
200 years from the date of the agreement between the transit agency and the Commissioner of
201 Highways, the persons who would otherwise have been authorized to petition for reconveyance
202 under § ~~33.1-90~~ 33.2-XXX or their heirs or assigns may seek reconveyance under the same
203 procedures and on the same basis as established in § ~~33.1-90~~ 33.2-XXX.

204 This section shall not compel the Commissioner of Highways to convey any such
205 property to such entities in contravention of any federal law or regulation affecting the
206 disposition of real property acquired for highway purposes when such property is no longer
207 needed for such purposes when such property has been acquired with federal funding
208 participation.

209 **Drafting note: Technical changes are made including updating the name of the**
210 **Uniform Relocation Assistance and Real Property Acquisitions Act of 1970.**

211 § ~~33.1-91~~ 33.2-xxx. Authority to acquire entire tract of land, or parcel thereof, when only
212 part to be utilized for highway purposes.

213 In acquiring rights-of-way for highway construction, reconstruction, or improvement,
214 and lands incidental to such construction, reconstruction, or improvement, the Commissioner of
215 Highways is authorized and empowered, whenever a portion of a tract of land is to be utilized

216 for right-of-way; or a purpose incidental to the construction, reconstruction, or improvement of
217 a public highway, to acquire by purchase, gift, or ~~by~~ the exercise of the power of eminent
218 domain the entire tract of land or any part thereof; whenever (i) the remainder of such tract or
219 part thereof can no longer be utilized for the purpose for which the entire tract is then being
220 utilized; ~~or;~~ (ii) a portion of a building is to be taken ~~or;~~ (iii) the cost of removal or relocation of
221 the buildings; or other improvements on the remaining portion; necessitated by the taking;
222 would exceed the cost of destroying such buildings or other improvements; ~~or;~~ (iv) the highway
223 project will leave the remaining portions without a means of access to a public highway; ~~or~~
224 ~~whenever~~ (v) in the judgment of the Commissioner of Highways the resulting damages to the
225 remainder of such tract or part thereof lying outside the proposed right-of-way, or the area being
226 acquired for a purpose incidental to the construction, reconstruction, or improvement of a public
227 highway, will approximate or equal the fair market value of such remaining lands; ~~provided,~~
228 ~~however, that.~~ However, the Commissioner of Highways shall not acquire the remainder of such
229 tracts by purchase where the remaining portion is in excess of 10 acres or; by condemnation
230 where the remaining portion is in excess of two acres. Nothing contained ~~herein in this section~~
231 shall be construed as preventing the Commissioner of Highways from complying, where
232 applicable, with the provisions of § 25.1-417.

233 **Drafting note: Technical changes.**

234 § ~~33.1-91.1~~ 33.2-xxx. Authority to acquire land to replace parkland; applicability.

235 For the purposes of this section, the term "parkland" only includes parks and recreational
236 areas under the jurisdiction of state agencies or local governing bodies. Notwithstanding any
237 contrary provision of this title, the Commissioner of Highways may acquire by gift or purchase
238 any property without a permanent residential structure, or an interest in property, needed to
239 replace parkland that is acquired for the improvement, maintenance, construction, or
240 reconstruction of highways. Land acquired to replace parkland shall be abutting or appurtenant
241 to the property of rights-of-way acquired for the improvement, maintenance, construction, or
242 reconstruction of highways. ~~For the purposes of this section, the term "parkland" shall only~~

243 ~~include parks and recreational areas under the jurisdiction of local governing bodies or state~~
244 ~~agencies.~~ Before exercising the authority granted by this section, the Commissioner of
245 Highways shall notify the local governing body or state agency having jurisdiction over the
246 parkland and shall obtain the concurrence of the local governing body or state agency that
247 replacement parklands should be acquired and conveyed to the local governing body or state
248 agency in exchange for the parkland needed for the improvement, maintenance, construction, or
249 reconstruction of the highway.

250 The provisions of this section shall apply only in Albemarle County and the City of
251 Charlottesville.

252 **Drafting note: Technical changes.**

253 § ~~33.1-92~~ 33.2-xxx. Acquisition of residue parcels declared to be in public interest.

254 The acquisition of such residue parcels in addition to the lands necessary for the
255 immediate use for highway rights-of-way or purposes incidental to the construction,
256 reconstruction, or improvement of public highways, is hereby declared to be in the public
257 interest and constitutes a public use as the term public uses is used in Article I, Section 11 of the
258 Constitution of Virginia.

259 **Drafting note: Technical change.**

260 § ~~33.1-93~~ 33.2-xxx. Use and disposition of residue parcels of land.

261 The Commissioner of Highways may lease, sell, or exchange such residue parcels of
262 land upon such terms and conditions as in the judgment of the Commissioner of Highways may
263 be in the public interest; provided, however, that the Commissioner of Highways shall not use
264 such parcels for any commercial purpose. The Commissioner of Highways may lease, sell, or
265 exchange such residue parcels of land, as may have been acquired under the provisions of
266 ~~Article 5 (§ 33.1-267 et seq.) of Chapter 3 of Title 33.1, XX-XXX~~ upon such terms and
267 conditions as in the judgment of the Commissioner of Highways may be in the public interest.
268 The Commissioner of Highways may lease such parcels of land, as may have been acquired
269 under the provisions of § ~~33.1-90~~ 33.2-XXX in the event the former owner fails to make the

270 request authorized under ~~the aforesaid section § 33.2-XXX~~ to ~~others~~ persons other than the
271 former owner, upon such terms and conditions as in the judgment of the Commissioner of
272 Highways may be in the public interest. The provisions of ~~Articles 10 (§ 33.1-144 et seq.) and~~
273 ~~11 (§ 33.1-150 et seq.) of Chapter 1 of Title 33.1 XX-XXX~~ shall not be construed to apply to
274 the disposition of land ~~hereinabove~~ authorized in this section.

275 **Drafting note: Technical changes.**

276 § ~~33.1-94~~ 33.2-xxx. Right to enter on land to ascertain its suitability for highway and
277 other transportation purposes; damage resulting from such entry.

278 A. The Commissioner of Highways, through his duly authorized officers, agents, or
279 ~~servants~~ employees, may enter upon any land in the Commonwealth for the purposes of making
280 examination and survey thereof, including ~~but not limited to~~ photographing_; testing, including
281 ~~but not limited to~~ soil borings or testing for contamination_; making appraisals_; and taking such
282 actions as may be necessary or desirable to determine its suitability for highway and other
283 transportation purposes_; or for any other purpose incidental thereto. Such officers, agents, or
284 servants shall exercise care to protect any improvements, growing crops, or timber in making
285 such examination or survey.

286 B. Notice shall be sent to the owner by mail, at the address recorded in the tax records,
287 not less than 15 days prior to the first date of the proposed entry. Notice of intent to enter shall
288 be deemed made on the date of mailing.

289 C. The notice shall include the anticipated date or dates such entry is proposed to be
290 made and the purpose of such entry. Any entry authorized by this section shall be for the
291 purposes of making examination and survey thereof, including ~~but not limited to~~
292 photographing_; testing, including ~~but not limited to~~ soil borings or testing for contamination_;
293 making appraisals_; and taking such other actions as may be necessary or desirable to determine
294 the suitability of such property for highway and transportation purposes_; and shall not be
295 deemed a trespass.

296 D. Notwithstanding the provisions in subsections A and B, nothing shall preclude entry
297 prior to the anticipated date of entry specified in the notice if the property owner or his
298 designated representative agrees to or requests a date of entry prior to the date of entry specified
299 in the notice.

300 E. The Commissioner of Highways, through his duly authorized officers, agents, or
301 servants, shall make reimbursement for any actual damages to real or personal property
302 resulting from entry upon the property. In any action filed under this section, the court may
303 award the owner his reasonable attorney fees, court costs, and fees for no more than three expert
304 witnesses testifying at trial if (i) the court finds that the Commissioner of Highways maliciously,
305 willfully, or recklessly damaged the owner's property and (ii) the court awards the owner actual
306 damages in an amount 30 percent or more greater than the ~~Commissioner's~~ final written offer of
307 the Commissioner of Highways made no later than 30 days after the filing of an answer in
308 circuit court or the return date in general district court. A proceeding under this subsection shall
309 not preclude the owner from pursuing any additional remedies available to the landowner.

310 **Drafting note: Here and in other proposed sections, "but not limited to" or similar**
311 **language is removed when using the term "including" as provided in § 1-218. Technical**
312 **changes are also made.**

313 § ~~33.1-95~~ 33.2-xxx. Limitations in Title 25.1 not applicable to Commissioner of
314 Highways.

315 Except as to procedure, the Commissioner of Highways shall not be subject to any
316 limitations in Title 25.1 in exercising the power of eminent domain pursuant to this title.

317 **Drafting note: Technical change.**

318 § ~~33.1-95.1~~ 33.2-xxx. Notice of exercise of eminent domain power; evidence of value.

319 A. As used in this section:

320 "Owner" means any person owning an estate or interest in buildings, structures, or other
321 improvements on real property, which estate or interest is recorded in the official records of the
322 circuit court where the property is located, or improvements for which a permit has been issued

323 by the Commissioner of Highways pursuant to § 33.2-xxx [33.1-360]. "Owner" does not include
324 trustees or beneficiaries under a deed of trust or any person owning only a security interest in
325 the real property.

326 "Fair market value" means the price that the real property would bring if it were offered
327 for sale by one who wanted to sell, but was under no necessity, and was bought by one who
328 wanted to buy, but was under no necessity.

329 B. Notwithstanding anything to the contrary contained in this chapter or in Chapter 2 (§
330 25.1-200 et seq.) of Title 25.1:

331 1. The Commissioner of Highways shall notify every owner, as defined in this section,
332 of a building, structure, or other improvement, ~~as defined in this section,~~ if the Commissioner of
333 Highways intends to exercise the power of eminent domain in a manner that would result in a
334 taking of the building, structure, or other improvement~~;~~.

335 2. The owner of any such building, structure, or other improvement may present
336 evidence of the fair market value of such building, structure, or other improvement in the
337 proceedings described in § 25.1-233, provided such owner has filed a petition for intervention
338 pursuant to § 25.1-218~~;~~.

339 ~~3. For purposes of this section, "owner" means any person owning an estate or interest in~~
340 ~~buildings, structures, or other improvements on real property, which estate or interest is~~
341 ~~recorded in the official records of the circuit court where the property is located, or~~
342 ~~improvements for which a permit has been issued by the Commissioner of Highways pursuant~~
343 ~~to § 33.1-360 and shall not include trustees or beneficiaries under a deed of trust or any person~~
344 ~~owning only a security interest in the real property;~~

345 ~~4. For purposes of this section, "fair market value" means the price that the real property~~
346 ~~would bring if it were offered for sale by one who wanted to sell, but was under no necessity,~~
347 ~~and was bought by one who wanted to buy, but was under no necessity;~~

348 ~~5.~~3. If the owner of such building, structure, or improvement is different from the owner
349 of the underlying land, then such owner shall not be allowed to proffer any evidence of value

350 that the owner of the underlying land would not be permitted to proffer if the building, structure,
351 or improvement were owned by the owner of the underlying land; and

352 ~~6.4.~~ The provisions of this section shall not apply to condemnation proceedings in
353 which the petition for condemnation was filed prior to July 1, 2000.

354 **Drafting note: Technical changes.**

355 ~~§ 33.1-96 33.2-xxx.~~ Acquisition of interests for exchange with railroad, public utility
356 company, public service corporation or company, political subdivision, or cable television
357 company; relocation of poles, lines, etc.

358 Whenever any railroad, public utility company, public service corporation or company,
359 political subdivision, or cable television company owns or occupies any privately owned land
360 either under a claim of right or with the apparent acquiescence of the private landowner which
361 the Commissioner of Highways deems necessary and intends to acquire for any highway
362 project, and such land owned or occupied by the railroad, public utility company, public service
363 corporation or company, political subdivision, or cable television company is devoted to a
364 public use, the Commissioner of Highways may acquire by gift, purchase, or by the exercise of
365 the power of eminent domain additional land or easement, right-of-way, or interest in land
366 adjacent to or approximately adjacent to such land needed and proposed to be acquired for such
367 highway project and may then convey the same to the railroad, public utility company, public
368 service corporation or company, political subdivision, or cable television company for use by it
369 in lieu of the land theretofore owned or occupied by it but needed by the Commissioner of
370 Highways for such highway project. The condemnation of such land, easement, ~~rights-of-way~~
371 ~~right-of-way~~, or other interest in land to be conveyed to any railroad, public utility company,
372 public service corporation or company, political subdivision, or cable television company shall
373 be governed by the procedure prescribed by this article and may be carried out at the same time
374 if against the same property owner and if against the same landowner or in the same
375 proceedings in which land is condemned for highway purposes. The Commissioner of
376 Highways may, under the same procedure and conditions prescribed by this article, with respect

377 to property needed for highway purposes, enter upon and take possession of such property to be
378 conveyed to any railroad, public utility company, public service corporation or company,
379 political subdivision, or cable television company in the manner provided in §§ ~~33.1-119~~ 33.2-
380 XXX through ~~33.1-129~~, 33.2-XXX and proceed with the relocation of the installations of the
381 railroad or public utility company in order that the construction of the highway project may be
382 carried out without delay.

383 After the acquisition of the land owned or occupied by railroads, public utility
384 companies, public service ~~corporation~~ corporations or companies, political subdivisions, or
385 cable television companies and the acquisition of the additional land, easement, right-of-way, or
386 other interest in land for such railroads, utility companies, public service corporations or
387 companies, political subdivisions, or cable television companies as ~~hereinabove~~ provided ~~for in~~
388 this section, in the event the poles, lines, or other facilities are not removed by such railroads or
389 utility companies within ~~sixty~~ 60 days from the date of the taking by the Commissioner of
390 Highways, the Commissioner of Highways is ~~hereby~~ vested with the power to remove and
391 relocate such facilities at his own cost.

392 Any conveyance previously made by the Commissioner of Highways in exchange for
393 land ~~which that~~ was needed for a highway project is hereby declared to be valid and effective in
394 all respects.

395 **Drafting note: Technical changes.**

396 § ~~33.1-97~~ 33.2-xxx. Acquisition of land in median ~~strips~~ of highways for public mass
397 ~~transportation transit~~; disposition of such property.

398 When acquiring land for the construction of highways with divided roadways, the
399 Commissioner of Highways may, if he deems it necessary and appropriate, also acquire by gift,
400 purchase, or by the exercise of the power of eminent domain as vested in him by § ~~33.1-89~~ 33.2-
401 XXX, in addition to the land necessary for such highways, sufficient land in the median ~~strips~~
402 for use for public mass ~~transportation transit~~ and may convey or otherwise make available the
403 same to a public agency or authority or public service corporation or public service company for

404 the construction and operation thereon of public facilities for mass ~~transportation of passengers~~
405 transit.

406 Such additional land shall be acquired only after an agreement has been made between
407 the Commissioner of Highways and a public agency or authority or public service corporation
408 or public service company whereby such agency, authority, corporation, or company has agreed
409 to pay the cost of the additional land acquired and all expense incidental to its acquisition.

410 The condemnation of such land to be conveyed for use for public mass ~~transportation~~
411 transit shall be governed by the procedure prescribed by this article and may be carried out at
412 the same time if against the same property owner and if against the same landowner or in the
413 same proceedings in which land is condemned for highway purposes. The Commissioner of
414 Highways may, under the same procedure and conditions prescribed by this article with respect
415 to property needed for highway purposes, enter upon and take possession of such property to be
416 conveyed to a public agency or authority or public service corporation or public service
417 company in the manner provided in §§ ~~33.1-119, 33.2-XXX~~ through ~~33.1-129 of the Code~~ 33.2-
418 XXX.

419 The Board is authorized and directed with the consent of the Federal Highway
420 Administration to permit the Washington Metropolitan Area Transit Authority to commence
421 construction of rapid transit and ancillary facilities within the proposed median ~~strip~~ of Interstate
422 Route 66 between Glebe Road in Arlington County and Nutley Road in Fairfax County:
423 ~~Provided, however,~~ provided that (i) construction of rapid transit shall conform with highway
424 plans and that construction procedures shall be reviewed and approved by the Commissioner of
425 Highways. ~~Provided, further, that and (ii)~~ prior to construction of rapid transit, a mutually
426 satisfactory allocation of cost shall be agreed to by the Washington Metropolitan Area Transit
427 Authority, the ~~Commonwealth Transportation~~ Board, and the Federal Highway Administration.

428 **Drafting note: Technical changes.**

429 § ~~33.1-98, 33.2-XXX~~. Procedure in general; suits in name of Commissioner of Highways;
430 survival; validation of suits; notice of filing.

431 A. Proceedings for condemnation under this article shall be instituted and conducted in
432 accordance with the procedures provided in Chapter 2 (§ 25.1-200 et seq.) of Title 25.1, except
433 that the provisions of §§ ~~33.1-119~~ 33.2-XXX through ~~33.1-132~~ 33.2-XXX shall be applicable to
434 such proceedings.

435 B. All suits shall be instituted and conducted in the name of the Commissioner of
436 Highways as petitioner without naming the individual who may be such Commissioner of
437 Highways or acting Commissioner of Highways. In the event of the death, removal, retirement,
438 or resignation of the Commissioner of Highways or acting Commissioner of Highways, the suit
439 shall automatically survive to a successor Commissioner of Highways or acting Commissioner
440 of Highways, as the case may be. All suits heretofore filed in accordance with the provisions of
441 this section are hereby ratified, validated, and confirmed.

442 C. In addition to any other notices required to be served pursuant to this section, in any
443 proceeding instituted by the Commissioner of Highways under this title, a copy of the notice of
444 the filing of the petition also shall be served, in the same manner as such notice is served upon
445 owners, upon any person owning structures or improvements for which an outdoor advertising
446 permit has been issued by the Commissioner of Highways pursuant to § ~~33.1-360~~ 33.2-XXX.

447 **Drafting note: Technical changes.**

448 ~~§ 33.1-99.~~

449 **Drafting note: Repealed by Acts 1972, c. 765.**

450 ~~§ 33.1-100. Reserved.~~

451 **Drafting note: This section is removed because it is carried as reserved in the**
452 **existing title.**

453 ~~§§ 33.1-101. through 33.1-105.~~

454 **Drafting note: Repealed by Acts 1972, c. 765.**

455 ~~§ 33.1-106. Reserved.~~

456 **Drafting note: This section is removed because it is carried as reserved in the**
457 **existing title.**

458 | ~~§§ 33.1-107. through 33.1-115.~~

459 | **Drafting note: Repealed by Acts 1972, c. 765.**

460 | ~~§ 33.1-116.~~

461 | **Drafting note: Repealed by Acts 1970, c. 40.**

462 | ~~§ 33.1-117~~ 33.2-xxx. Taking ~~road~~ highway materials from streams, rivers, and
463 | watercourses.

464 | Whenever the Commissioner of Highways determines that it is necessary or desirable to
465 | remove materials from the streams, rivers, or watercourses for use on public ~~roads~~ highways, he
466 | shall submit to the Marine Resources Commission his plan for the removal and all conditions
467 | relating thereto for its review and concurrence. After receiving the concurrence of the Marine
468 | Resources Commission, the Commissioner of Highways may take for use on the public ~~roads~~
469 | highways in ~~this the~~ Commonwealth sand, gravel, rock, and any other materials deemed by him
470 | suitable for road purposes from the streams, rivers, and watercourses, title to the bed of which is
471 | in the Commonwealth, and in addition to the power of eminent domain already vested in him
472 | may acquire by condemnation all property, rights, and easements necessary to enable him to
473 | obtain and make use of such materials. All such proceedings shall be governed by the provisions
474 | of law governing the exercise by the Commissioner of Highways of the power of eminent
475 | domain for state highway purposes.

476 | **Drafting note: Technical changes.**

477 | ~~§ 33.1-118. Reserved.~~

478 | **Drafting note: This section is removed because it is carried as reserved in the**
479 | **existing title.**

480 | ~~§ 33.1-119~~ 33.2-xxx. Authority to take possession and title to property before or during
481 | condemnation; purpose and intent of provisions.

482 | In addition to the exercise of the power of eminent domain prior to the entry upon land
483 | being condemned, as provided ~~hereinabove in this article~~, the Commissioner of Highways is
484 | authorized to acquire title and to enter upon and take possession of such property and rights-of-

485 way, for the purposes set out in § ~~33.1-89~~ 33.2-XXX, as the Commissioner of Highways may
486 deem necessary, and proceed with the construction of such highway, such taking to be made
487 pursuant to ~~the following sections §§ 33.2-XXX through 33.2-XXX~~.

488 It is the intention of ~~these sections~~ this article to provide that such property and rights-of-
489 way may, in the discretion of the Commissioner of Highways, be condemned during or after the
490 construction of the highway, as well as prior thereto, and to direct the fund out of which the
491 judgment of the court in condemnation proceedings shall be paid, and to provide that in all other
492 respects the provisions of this article shall apply, whether the property and rights-of-way are
493 condemned before, during, or after the construction of the highway. ~~But~~ However, the
494 authorities constructing such highway under the authority of ~~these sections~~ this article shall use
495 diligence to protect growing crops and pastures and to prevent damage to any property not
496 taken. So far as possible all rights-of-way shall be acquired or contracted for before any
497 condemnation is resorted to.

498 **Drafting note: Technical changes.**

499 § ~~33.1-120~~ 33.2-xxx. Payments into court or filing certificate of deposit before entering
500 upon land.

501 A. Before entering upon, or taking possession of land pursuant to § ~~33.1-119~~ 33.2-XXX,
502 the Commissioner of Highways shall either:

503 1. Pay into the court wherein condemnation proceedings are pending, or are to be
504 instituted such sum as is required by subsection B; or

505 2. File with the court wherein condemnation proceedings are pending, or are to be
506 instituted, a certificate of deposit issued by the Commissioner of Highways for such sum as is
507 required by subsection B, which shall be deemed and held for the purpose of this chapter to be
508 payment into the custody of such court.

509 B. The amount to be paid into the court as provided in subdivision A 1 or represented by
510 a certificate of deposit as provided in subdivision A 2 shall be the amount that the
511 Commissioner of Highways estimates to be the fair value of the land taken, or interest therein

512 sought, and damage done, which estimate shall be based on a bona fide appraisal if required by
513 § 25.1-417.

514 C. If the Commissioner of Highways makes a payment into court as provided in
515 subdivision A 1, ~~it the court~~ shall also record a certificate of take pursuant to § ~~33.1-122~~ 33.2-
516 XXX.

517 D. Payment against a certificate of deposit, when ordered by the court named therein,
518 shall be paid by the Commissioner of Highways.

519 E. As used in this article:

520 ~~"Certificate" means an instrument that, when recorded in the office of the clerk of the~~
521 ~~circuit court wherein condemnation proceedings are pending or are to be instituted by the~~
522 ~~Commissioner, terminates the interest or estate of the owner of the property described therein~~
523 ~~and vests defeasible title to such property or interest or estate of the owner in the~~
524 ~~Commonwealth. "Certificate" includes a certificate of deposit and a certificate of take.~~

525 ~~"Certificate of deposit" means a certificate issued by the Commissioner of Highways and~~
526 ~~countersigned by the State Treasurer, stating that any sum or sums designated therein shall be~~
527 ~~paid pursuant to the order of the court, and which is filed by the Commissioner with the court~~
528 ~~wherein condemnation proceedings are pending or are to be instituted in lieu of the payment of~~
529 ~~funds into court, as provided in subdivision A 2.~~

530 ~~"Certificate of take" means a certificate recorded by the Commissioner with the court~~
531 ~~wherein condemnation proceedings are pending or are to be instituted, in connection with which~~
532 ~~the Commissioner has deposited funds with the court as provided in subdivision A 1.~~

533 F. The Commissioner of Highways shall not be permitted to force relocation on
534 improved owner-occupied property until the owner is permitted to withdraw the funds
535 represented by the certificate filed with the court. However, if the owner refuses to withdraw the
536 funds represented by the certificate filed with the court or if the Commissioner of Highways
537 reasonably believes that the owner does not possess clear title to the property being taken, that
538 ownership of the property is disputed, or that certain owners cannot be located, the

539 Commissioner of Highways may petition the court to establish that the owner does not possess
540 clear title, that the ownership of the property is in dispute, that certain owners ~~can not~~ cannot be
541 located, or that the owner has refused to withdraw the funds represented by the certificate filed
542 with the court, and request that the Commissioner of Highways be given authority to force
543 relocation.

544 **Drafting note: Technical changes.**

545 § ~~33.1-121~~ 33.2-xxx. Payment of certificates of deposit; notice to owner.

546 A. A certificate of deposit shall be deemed and held for the purpose of this article to be
547 payment into the custody of such court. Payment against any certificate of deposit so issued and
548 countersigned, when ordered by the court named therein, shall be paid by the State Treasurer on
549 warrants of the Comptroller, issued on vouchers signed by the Commissioner of Highways.

550 B. A duplicate of each certificate of deposit so issued and countersigned shall be kept as
551 a record in the office of the Commissioner of Highways and a copy thereof shall be filed with
552 the State Treasurer.

553 C. The Commissioner of Highways shall give notice to the owner or tenant of the
554 freehold by registered mail, if known, that a certificate of deposit will be filed.

555 **Drafting note: Technical changes.**

556 § ~~33.1-122~~ 33.2-xxx. Recordation of certificates; transfer of title or interest; land situate
557 in two or more counties or cities.

558 The certificate of the Commissioner of Highways shall be recorded in the clerk's office
559 of the court where deeds are recorded. Upon such recordation, the interest or estate of the owner
560 of such property shall terminate and the title to such property or interest or estate of the owner
561 shall be vested in the Commonwealth ~~and such~~. Such owner shall have such interest or estate in
562 the funds held on deposit by virtue of the certificate as he had in the property taken or damaged,
563 and all liens by deed of trust, judgment, or otherwise upon such property or estate or interest
564 shall be transferred to such funds. The title in the Commonwealth shall be defeasible until the
565 reaching of an agreement between the Commissioner of Highways and such owner, as provided

566 in § ~~33.1-129~~ 33.2-XXX, or the compensation determined by condemnation proceedings as
567 ~~hereinafter~~ provided in §§ 33.2-xxx through 33.2-xxx [33.1-123 - 33.1-130].

568 If the land affected by the certificate ~~aforsaid~~ is situate in two or more counties or cities,
569 the clerk of the court wherein the certificate is recorded shall certify a copy of such certificate to
570 the clerk of the court of the counties or cities in which any portion of the land lies, who shall
571 record the same in his deed book and index it in the name of the person who had the land before
572 and also in the name of the Commonwealth.

573 **Drafting note: Technical changes.**

574 § ~~33.1-123~~ 33.2-xxx. Certificates to describe land and list owners.

575 The certificate shall set forth the description of the land or interest therein being taken or
576 damaged, and, if known, the owner ~~or owners, if known~~.

577 **Drafting note: Technical changes.**

578 § ~~33.1-124~~ 33.2-xxx. Proceedings for distribution of funds; effect of acceptance of
579 payments; evidence as to amount of deposit or certificate.

580 A. Any person or persons shown by a certificate to be entitled thereto may petition the
581 court for the distribution of all or any part of the funds deposited with the court pursuant to
582 subdivision A 1 of § ~~33.1-120~~ 33.2-XXX or represented by a certificate of deposit filed pursuant
583 to subdivision A 2 of § ~~33.1-120~~ 33.2-XXX.

584 B. A copy of such petition shall be served on the Commissioner of Highways, his
585 deputy, or any attorney authorized to accept service with a notice, returnable to the court or
586 judge not less than 21 days after such service, to show cause, if any, ~~the Commissioner can~~, why
587 such amount should not be distributed in accordance with the prayers of the petition.

588 C. If the Commissioner of Highways does not, on or before the return day of the petition,
589 show such cause, and if the record in the proceeding does not disclose any denial or dispute with
590 respect thereto, the court shall enter an order directing the distribution of such amount in
591 accordance with the prayers of the petition. However, in the case of a nonresident petitioner the
592 court may in its discretion require a bond before ordering the distribution.

593 D. If funds have been deposited with the court pursuant to subdivision A 1 of § ~~33.1-120~~
594 ~~33.2-XXX~~, any interest that has accrued on the funds shall be payable to the person or persons
595 entitled to receive such funds.

596 E. If funds are not then on deposit with the court but are represented by a certificate of
597 deposit filed pursuant to subdivision A 2 of § ~~33.1-120~~ ~~33.2-XXX~~, a certified copy of such order
598 shall forthwith be sent to the Commissioner of Highways by the clerk. It shall be the duty of the
599 Commissioner of Highways to deposit such funds with the court within 21 days of the date of
600 such order.

601 F. Interest shall be payable on funds represented by a certificate of deposit from the date
602 of filing of the certificate of deposit until the funds are paid into court at the rate of interest
603 established pursuant to § 6621(a)(2) of the Internal Revenue Code ~~(as such section may be~~
604 ~~amended from time to time)~~ of 1954, as amended or renumbered, for the month in which the
605 order pursuant to this section is entered. However, interest shall not accrue if an injunction is
606 filed against the Department ~~of Transportation~~ that enjoins the taking of the property described
607 in the certificate.

608 G. If the Commissioner of Highways shows such cause, or if the record in the
609 proceeding discloses any denial or dispute as to the persons entitled to such distribution or to
610 any interest or share therein, the court shall direct such proceedings as are provided by § 25.1-
611 240 for the distribution of awards.

612 H. However, the acceptance of such payment shall not limit the amount to be allowed by
613 a commissioner in a condemnation proceeding, nor limit the rights of any party or parties to the
614 proceeding to appeal from any decision therein; nor shall any party to such proceeding be
615 entitled to introduce evidence of any amount deposited with the court or represented by a
616 certificate, nor of any amount ~~which that~~ has been accepted by any party entitled thereto
617 pursuant to this section.

618 **Drafting note: Technical changes.**

619 § ~~33.1-125~~ 33.2-xxx. Reformation, alteration, revision, amendment₂ or invalidation of
620 certificate.

621 Upon the recordation of such certificate, no reformation, alteration, revision,
622 amendment₂ or invalidation shall be made for any purpose without the prior consent of the court
623 wherein such certificate is recorded. The court or judge in vacation shall have jurisdiction to
624 reform, alter, revise, amend₂ or invalidate in whole or in part any certificate₂; to correct mistakes
625 in the description of the property affected by such certificate₂; to correct the name ~~or names~~
626 the owner ~~or owners~~ in the certificate₂; to correct any other error ~~which that~~ may exist with
627 respect to such certificate₂; or for any other purpose. A petition filed by the Commissioner of
628 Highways with the court setting forth any error made in such certificate, or the necessity of any
629 change therein, shall be deemed sufficient basis for the reformation, alteration, revision,
630 amendment₂ or invalidation in whole or in part of such certificate. The court may enter an order
631 permitting the reformation, alteration, revision, amendment₂ or invalidation in whole or in part₂
632 and such order, together with any revised certificate ~~which that~~ may be necessary₂, shall be
633 spread in the current deed book. The filing of any certificate pursuant to the provisions of this
634 section shall not alter the date of taking as established by the filing of the original certificate
635 pursuant to § ~~33.1-122~~ 33.2-XXX as to any land ~~which that~~ is included in the amended
636 certificate, and no such amended certificate shall include any land not in the original certificate.
637 Nothing herein contained shall be construed to prohibit or preclude any person damaged
638 thereby₂ from showing in the proper proceeding the damage suffered by reason of such mistake
639 or the invalidation of a certificate of deposit as herein provided.

640 **Drafting note: Technical changes.**

641 ~~§ 33.1-126.~~

642 **Drafting note: Repealed by Acts 1994, c. 432.**

643 § ~~33.1-127~~ 33.2-xxx. When condemnation proceedings instituted; payment of
644 compensation or damages; order confirming award; recording.

645 Within 180 days after the recordation of such certificate, if the Commissioner of
646 Highways and the owner~~-or owners~~ of such lands or interest therein taken or damaged by the
647 Commissioner of Highways are unable to agree as to the compensation or damages, if any,
648 caused thereby, or such consent cannot be obtained due to the incapacity of the~~owners~~ owner or
649 one or more of~~them~~ the owners, or because such owner~~;~~ or owners~~;~~ be are unknown or cannot
650 with reasonable diligence be found within~~this the~~ Commonwealth, the Commissioner of
651 Highways shall institute condemnation proceedings, as provided in this article, unless said
652 proceedings shall have been instituted prior to the recordation of such certificate. The amount of
653 such compensation and damages, if any, awarded to the owner~~-or owners~~ in such proceedings
654 shall be paid out of the appropriations to the~~Virginia~~ Department~~of Transportation~~. The final
655 order confirming the~~Commissioner's~~ award of the Commissioner of Highways shall confirm
656 absolute and indefeasible title to the land, or interest therein sought, in the Commonwealth and
657 shall be spread in the current deed book.

658 **Drafting note: Technical changes.**

659 §~~33.1-128~~ 33.2-xxx. Awards in greater or lesser amounts than deposit; interest.

660 A. If the amount of an award in a condemnation proceeding is greater than that deposited
661 with the court or represented by a certificate of deposit, the excess amount, together with
662 interest accrued on such excess amount, shall be paid into court for the person or persons
663 entitled thereto.

664 B. Interest shall accrue on the excess amount at the rate of interest established pursuant
665 to § 6621(a)(2) of the Internal Revenue Code~~(as such section may be amended from time to~~
666 time) of 1954, as amended or renumbered, compiled by the~~Virginia~~ Department~~of~~
667 ~~Transportation~~ for the month in which the award is rendered, computed from the date of such
668 deposit to the date of payment into court, and shall be paid into court for the person or persons
669 entitled thereto. However, any (i) interest that accrued before July 1, 1970, shall be paid at the
670 rate of five percent; (ii) interest accruing thereafter and prior to July 1, 1981, shall be paid at the
671 rate of six percent; (iii) interest accruing thereafter and prior to July 1, 1994, shall be paid at the

672 rate of eight percent; and (iv) interest accruing thereafter and prior to July 1, 2003, shall be paid
673 at the general account composite rate, compiled by the Department of the Treasury of Virginia
674 for the month in which the award is rendered.

675 C. If the amount of an award in a condemnation proceeding is less than that deposited
676 with the court or represented by a certificate of deposit, and the person or persons entitled
677 thereto have received a distribution of the funds pursuant to § ~~33.1-124~~ 33.2-XXX, the
678 Commissioner of Highways shall recover (i) the amount of such excess and (ii) interest on such
679 excess at the rate of interest established pursuant to § 6621(a)(2) of the Internal Revenue Code
680 ~~(as such section may be amended from time to time)~~ of 1954, as amended or renumbered. If any
681 person has been paid a greater sum than that to which he is entitled as determined by the award,
682 judgment shall be entered for the Commissioner of Highways against such person for the
683 amount of such excess and interest. However, the Commissioner of Highways shall not be
684 entitled to recover the amount of such excess and interest in the event the Commissioner of
685 Highways acquired, by virtue of the certificate, an entire parcel of land containing a dwelling,
686 ~~multiple family multiple-family~~ dwelling, or building used for commercial purposes at the time
687 of initiation of negotiations for the acquisition of such property.

688 **Drafting note: The provisions dealing with what rates of interest are payable and**
689 **when appear to be obsolete and are thus removed. Technical changes are also made.**

690 § ~~33.1-129~~ 33.2-xxx. Agreements as to compensation; petition and order of court
691 thereon; disposition of deposit.

692 At any time after the recordation of such certificate, but prior to the institution of
693 condemnation proceedings, if the Commissioner of Highways and the owner, or owners of the
694 land or interest therein taken or damaged are able to agree as to compensation for the land taken
695 and damages, if any, caused by such taking, the Commissioner of Highways shall file with the
696 court a petition so stating, with a copy of the agreement attached. If condemnation proceedings
697 are already pending at the time of reaching such agreement, no such petition shall be required,
698 but the motion for dismissal of such proceedings shall contain an averment that such agreement

699 | has been reached. Upon the filing of such ~~a~~ petition, or ~~a~~ motion to dismiss, ~~as herein provided~~,
700 | the court shall thereupon enter an order confirming absolute and indefeasible title to the land or
701 | interest therein in the Commonwealth. Such order shall be spread in the current deed book.
702 | Upon entry of such order, the Commissioner of Highways and State Treasurer shall be relieved
703 | of further obligation by virtue of having filed such certificate of deposit with the court.

704 | If it shall appear from such petition and agreement, or motion to dismiss a pending suit,
705 | that no person or persons other than those executing such agreement are entitled to the fund on
706 | deposit, the court shall direct that such fund, after payment therefrom of any taxes ~~which that~~
707 | may be charged against such land taken, be disbursed and distributed in accordance with the
708 | statement or charge in the petition, or motion, among the parties or persons entitled thereto. If it
709 | shall appear that a controversy exists as to the persons entitled to such fund, such distribution
710 | shall be made in accordance with the provisions of § ~~33.1-124~~ 33.2-XXX.

711 | **Drafting note: Technical changes.**

712 | § ~~33.1-130~~ 33.2-xxx. Enhancement to be offset against damage.

713 | In all cases under the provisions of this article, the enhancement, if any, in value of the
714 | remaining property of the landowner by reason of the construction or improvement
715 | contemplated or made by the Commissioner, of Highways shall be offset against the damage, if
716 | any, resulting to such remaining property of such landowner by reason of such construction or
717 | improvement. ~~But~~ However, such enhancement in value shall not be offset against the value of
718 | the property taken. ~~And, and~~ if such enhancement in value ~~shall exceed~~ exceeds the damage,
719 | there shall be no recovery ~~over~~ against the landowner for such excess.

720 | **Drafting note: Technical changes.**

721 | § ~~33.1-131~~. Reserved.

722 | **Drafting note: This section is removed because it is carried as reserved in the**
723 | **existing title.**

724 | § ~~33.1-132~~ 33.2-xxx. Remedy of landowners under certain conditions.

725 Whenever the Commissioner of Highways enters upon and takes possession of property
726 ~~under the provisions of pursuant to §§ 33.1-119, 33.2-XXX~~ through ~~33.1-121, 33.2-XXX~~ and has
727 not instituted condemnation proceedings within 180 days after the recordation of a certificate as
728 required by § ~~33.1-127, 33.2-XXX~~, whether the construction of the highway project has been
729 completed or not, the property owner may, if no agreement has been made with the
730 Commissioner of Highways as to compensation and damage, if any, petition the circuit court of
731 the county or the court of the city in which such cases are tried, and in which the greater portion
732 of the property lies for the appointment of commissioners or a jury to determine just
733 compensation for the property taken and damages done, if any. A copy of such petition shall be
734 served upon the Commissioner of Highways at least 10 days before it is presented to the court,
735 and the Commissioner of Highways shall file an answer thereto within five days after the
736 petition is so presented. ~~If it be found by the court~~ If the court finds that a reasonable time has
737 elapsed for the completion of the construction of the highway project or that 60 days have
738 elapsed since the completion of the construction of the highway project or that more than 180
739 days have elapsed since the Commissioner of Highways entered upon and took possession of
740 the property, without condemnation proceedings being instituted and without an agreement
741 having been made between the property owner and the Commissioner of Highways as to
742 compensation and damages, if any, commissioners or a jury shall be appointed to ascertain the
743 amount of compensation to be paid for the property taken and damages done, if any. The
744 proceedings shall thereafter be governed by the procedure prescribed by Chapter 2 (§ 25.1-200
745 et seq.) of Title 25.1 insofar as the same may be applicable.

746 **Drafting note: Technical changes.**

747 ~~Article 7.1.~~

748 ~~Relocation Assistance to Persons Displaced by Highway Construction.~~

749 ~~§§ 33.1-132.1 through 33.1-132.11.~~

750 **Drafting note: Repealed by Acts 1972, c. 738.**

751

752 Article ~~8~~2.

753 Acquisition of Land Used as Cemeteries.

754 **Drafting note: Existing Article 8 of Chapter 1 of Title 33.1 is retained as Article 2 of**
755 **Chapter X of Title 33.2 on Acquisition of Land Used as Cemeteries.**

756 § ~~33.1-133~~ 33.2-xxx. Commissioner of Highways may enter into agreement with person,
757 church, association, etc.

758 Whenever it becomes necessary for the Commissioner of Highways to acquire land or
759 other interest therein, for the purposes set forth in this title, and such land to be acquired is a part
760 or the whole of a cemetery or graveyard owned by any person, church, association, corporation,
761 or ~~any~~ other legal entity, ~~which that~~ has the legal authority to make disposition of the same, the
762 Commissioner of Highways may enter into agreements with such person, church, association,
763 corporation, or other legal entity, for the removal of any remains ~~which that~~ may be interred
764 upon the land. Such agreement shall provide for reinterment in some suitable repository. For
765 purposes of this article, the sprinkling of ashes or their burial in a biodegradable container on
766 private residential property, not subject to regulation under Chapter 3 (§ 57-22 et seq.) of Title
767 57, shall not constitute the creation of a cemetery or graveyard.

768 **Drafting note: Technical changes.**

769 § ~~33.1-134~~ 33.2-xxx. Commissioner of Highways may file petition for condemnation
770 when no agreement can be reached; notice of condemnation proceedings.

771 In the event no agreement can be reached as provided ~~hereinabove in § 33.2-XXX~~
772 [preceding section], or whenever such land is a part or the whole of a cemetery or graveyard
773 owned by persons unknown, or by any person, church, association, corporation, or other legal
774 entity, not having legal authority to make disposition of the same, the Commissioner of
775 Highways shall petition the court of the city or county in which the land is situate, and in which
776 condemnation proceedings are instituted to acquire land, for the purpose of condemning such
777 land and having the remains interred in such cemetery or graveyard removed to some suitable
778 repository. To such petition the owner ~~or owners~~ of the land and next of kin ~~to the persons of~~

779 ~~those~~ interred therein, if known, shall be made defendants and served with notice. If such owner
780 ~~or owners~~ and next of kin ~~be unknown, or infant, insane or incompetent, are unknown, less than~~
781 ~~18 years of age, have been adjudicated insane or incompetent, or nonresident are nonresidents~~ of
782 ~~this the~~ Commonwealth, such notice shall be served in the manner prescribed by Chapter 2 (§
783 25.1-200 et seq.) of Title 25.1.

784 **Drafting note: Technical changes.**

785 § ~~33.1-135~~ 33.2-xxx. Contents of petition for condemnation.

786 The contents of such petition shall comply with all statutory requirements prescribed for
787 the exercise of the power of eminent domain by the Commissioner of Highways; and shall
788 contain the reasons why it is practical to acquire such land and remove any remains ~~which that~~
789 may be interred therein.

790 **Drafting note: Technical changes.**

791 § ~~33.1-136~~ 33.2-xxx. Removal and reinterment of remains; other proceedings.

792 The trial court shall determine a suitable repository for reinterment and the manner in
793 which the removal and reinterment is to be undertaken; and shall tax the cost and expense of
794 such removal and reinterment against the Commissioner of Highways. Insofar as possible and
795 reasonable, the court shall consider the wishes of the next of kin of those interred in such graves
796 in making the determination as to a suitable repository and manner of removal and reinterment.
797 All other proceedings in the condemnation of such land and the determination of just
798 compensation for such taking and damages suffered shall be conducted in accordance with the
799 statutes made and provided for the exercise of the power of eminent domain by the
800 Commissioner of Highways.

801 **Drafting note: Technical changes.**

802 #

1 CHAPTER XX.

2 HIGHWAY CONSTRUCTION CONTRACTS AND SUITS; HIGHWAY
3 CONTRACTORS ASSOCIATION.

4 Article 1.

5 Highway Construction Contracts, Limitations on Suits, and Adjustment of Claims.

6 **Drafting note: This proposed article contains several sections dealing with closely**
7 **related subjects, some from distinct chapters, that are here combined in a single article,**
8 **and others culled from an article containing a wide assortment of miscellaneous sections.**

9 ~~§ 33.1-191 33.2-xxx. Contracts~~ Highway construction contracts.

10 A. Every contractor whose bid is accepted shall, before commencing work, enter into a
11 contract with the Commissioner of Highways, which shall fully set out the time when work shall
12 commence and when the contract shall be completed, as well as the time and manner for the
13 payment for the work. Whenever the Commissioner of Highways or his designee publicly opens
14 and announces all bids received for each invitation to bid, it shall be announced at the same time
15 if the lowest read bid exceeds the maximum tolerance of the Department's estimate for the work
16 represented by that bid.

17 B. The contract shall require that the contractor comply with all requirements,
18 conditions, and terms of the contract, including ~~but not limited to~~ environmental permits that are
19 part of the contract. If the contractor violates a contract provision and the violation results in
20 environmental damage or if the contractor violates environmental laws or environmental
21 permits, the Department may suspend the contractor from future bidding or initiate debarment.
22 In addition, the Department may recover either (i) the loss or damage that the Department
23 suffers as a result of such violation or (ii) any liquidated damages established in such contract
24 plus (iii) reasonable ~~attorney's~~ attorney fees and expert witness fees. Any damages and costs
25 collected under this section shall be deposited into the Transportation Trust Fund and used for
26 transportation purposes as determined by the ~~Commonwealth Transportation~~ Board.

54 to appear before him, either in person or through counsel, and present any additional facts and
55 arguments in support of his claim as previously filed.

56 C. The Commissioner of Highways shall schedule such appearance to be held within
57 ~~thirty 30~~ days of receiving the claimant's written request. The claimant and the Commissioner of
58 Highways may, however, mutually agree to schedule such appearance to be held after ~~thirty 30~~
59 days but before ~~sixty 60~~ days from the receipt of the claimant's written request.

60 D. Within ~~forty five 45~~ days from the date of the appearance before him, the
61 Commissioner of Highways shall make an investigation of the claim and notify the contractor in
62 writing of his decision. The claimant and the Commissioner of Highways may, however,
63 mutually agree to extend such ~~forty five day 45-day~~ period for another ~~thirty 30~~ days. If the
64 Commissioner of Highways deems that all or any portion of a claim is valid, he shall have the
65 authority to negotiate a settlement with the contractor, but any such settlement shall be subject
66 to the provisions of § 2.2-514.

67 E. Failure of the Department or the Commissioner of Highways to render a decision
68 within the time period specified in subsections A and D, or within such other period as has been
69 mutually agreed upon as provided in this section, shall be deemed a denial of the claim. Any
70 mutual agreements for time extension permitted herein shall in no way extend the limitations set
71 out in § ~~33.1-192 33.2-XXX~~.

72 If the Commissioner of Highways determines that a claim has been denied as the result
73 of an administrative oversight, then the Department reserves the right to reconsider the claim.

74 **Drafting note: Technical changes.**

75 ~~§ 33.1-192. Limitation of suits on such contracts entered into prior to July 1, 1976.~~

76 ~~No suit or action shall be brought against the Department of Transportation,~~
77 ~~Commonwealth of Virginia, by any contractor or any persons claiming under him, on any~~
78 ~~contract executed pursuant to this chapter or by others on any claim arising from the prosecution~~
79 ~~of the project by the contractor, unless the same shall be brought within one year after the~~

80 ~~completion of the work on the project to the satisfaction of the chief engineer, Department of~~
81 ~~Transportation.~~

82 ~~No suit or action shall be brought against the contractor or surety on any such contract or~~
83 ~~claim unless the same shall be brought within five years after the completion of the work on the~~
84 ~~project to the satisfaction of the chief engineer, Department of Transportation.~~

85 **Drafting note: This section is deleted as obsolete because it dealt with limiting suits**
86 **on contracts executed before July 1, 1976 and such suits were required to be brought**
87 **within five years after the completion of work.**

88 § ~~33.1-192.1~~ 33.2-xxx. Limitation of suits on contracts ~~executed after June 30, 1976~~.

89 No suit or action shall be brought against the Department ~~of Transportation~~ by a
90 contractor or any persons claiming under him or on behalf of a subcontractor of the contractor
91 or a person furnishing materials for the contract to the contractor, on any contract executed
92 pursuant to this ~~chapter article, after June 30, 1976~~, or by others on any claim arising from the
93 performance of the contract by the contractor, subcontractor, or person furnishing materials to
94 the contractor, unless the claimant ~~shall have~~ has exhausted the review process provided by §
95 ~~33.1-386~~ 33.2-XXX. Further, no such suit or action shall be brought unless ~~the same shall be~~
96 such suit or action is brought within ~~twelve~~ 12 months from receipt of the decision of the
97 Commissioner of ~~the Department of Transportation~~ Highways. In no event shall any delay
98 therein on the part of the contractor, subcontractor, or person furnishing materials be construed
99 as a reason for extending the time within which such suit or action must be brought. In any case
100 brought against the Department ~~of Transportation~~ on behalf of a subcontractor or person
101 furnishing materials to the contractor, lack of privity between the parties shall be no defense;
102 however, any such case brought on behalf of a subcontractor or person furnishing materials to
103 the contractor shall only be brought for costs and expenses caused by the acts or omissions of
104 the Department ~~of Transportation~~ and shall not be brought for costs and expenses caused by the
105 contractor.

106 ~~Section 33.1-192 shall continue in force as to contracts entered into prior to July 1, 1976,~~
107 ~~or claims arising therefrom.~~

108 **Drafting note: Technical changes are made. References to suits from contracts**
109 **executed before 1976 are deleted as obsolete since § 33.1-192 requires all suits to be filed**
110 **within five years of the completion of a project and that section is being deleted as**
111 **obsolete.**

112 § ~~33.1-387~~ 33.2-xxx. Civil action.

113 As to such portion of the claim as is denied by the Commissioner of Highways, the
114 contractor may institute a civil action for such sum as he claims to be entitled to under the
115 contract for himself or for his subcontractors or for persons furnishing materials for the contract
116 by the filing of a petition in the Circuit Court of the City of Richmond or where the highway
117 project ~~which~~ that is the subject of the contract is located. Any civil action brought on behalf of
118 a subcontractor or person furnishing materials for the contract shall only be brought for costs
119 and expenses caused by the acts or omissions of the Department ~~of Transportation~~ and shall not
120 be brought for costs and expenses caused by the contractor. Trial shall be by the court without a
121 jury. The submission of the claim to the Department ~~of Transportation~~ within the time and as set
122 out in § ~~33.1-386~~ 33.2-XXX shall be a condition precedent to bringing an action under this
123 ~~chapter article~~ and the Department ~~of Transportation~~ shall be allowed to assert any and all
124 defenses in a case brought by or on behalf of the subcontractor or a person furnishing materials
125 to the contractor which are available to the contractor.

126 **Drafting note: Technical changes.**

127 § ~~33.1-388~~ 33.2-xxx. Application of ~~chapter XXX~~; existing contracts.

128 The provisions of this chapter shall apply to all contracts executed and proceedings
129 initiated after June 30, 1976, and may be made applicable to existing contracts by mutual
130 consent of the contracting parties.

131 **Drafting note: No change.**

132 § ~~33.1-389~~ 33.2-xxx. Provisions of ~~chapter article~~ deemed part of contract.

133 The provisions of this ~~chapter article~~ shall be deemed to enter into and form a part of
 134 every contract entered into between the ~~Commonwealth Transportation~~ Board and any
 135 contractor on or after July 1, 1976, and no provision in said contracts shall be valid that is in
 136 conflict herewith.

137 **Drafting note: Technical changes.**

138 ~~CHAPTER 10~~

139 ~~DIRECTORATE OF PUBLIC TRANSPORTATION.~~

140 ~~§§ 33.1-390., 33.1-391.~~

141 Repealed by Acts 1992, c. 167.

142 ~~CHAPTER 5.~~

143 ~~HIGHWAY CONTRACTORS' ASSOCIATION.~~

144 ~~Article 2.~~

145 ~~Highway Contractors' Association.~~

146 ~~§ 33.1-336 33.2-xxx. "Highway contractors' association" defined Definitions.~~

147 For the purposes of this ~~chapter article~~:

148 ~~"highway Highway~~ contractors' association" ~~shall mean means~~ any association, bureau,
 149 agency, or other medium, incorporated or unincorporated, whose object or work is to promote
 150 the common welfare of, to furnish information to, to promote cooperation among, to stimulate
 151 the demand for the services of, or to advertise the members thereof.

152 ~~§ 33.1-337 "Member of highway contractors' association" defined.~~

153 ~~For the purposes of this chapter "member Member~~ of highway contractors' association"
 154 ~~shall mean means~~ any individual, ~~copartnership partnership,~~ or corporation engaged in
 155 contracting for the construction, repair, and maintenance of highways and highway bridges and
 156 for supplying labor, material, machinery, and supplies for use in highways and ~~highway~~ bridges;
 157 ~~who are members that is a member~~ of, ~~stockholders stockholder~~ in, ~~subscribers subscriber~~ of,
 158 ~~contributors or contributor~~ to, or ~~that is~~ in any way affiliated with, any highway contractors'
 159 association.

160 **Drafting note: Two separate definitional sections are combined in a single section.**

161 **There are also technical changes.**

162 § ~~33.1-338~~ 33.2-xxx. Statements to be furnished.

163 Every highway contractors' association domiciled in ~~this the~~ Commonwealth shall, upon
164 request from the Secretary of the Commonwealth, within ~~thirty~~ 30 days of such request, but no
165 more often than once a calendar year, furnish in writing to the Secretary of the Commonwealth
166 the following information:

167 ~~(1)~~ 1. The names and ~~post-office~~ post office addresses of all of its members. When any
168 ~~such~~ member is a firm, the names and addresses of the members of the firm shall be furnished.
169 When any ~~such~~ member is a corporation, the names of the officers of ~~such the~~ corporation shall
170 be furnished.

171 ~~(2)~~ 2. The names and ~~post-office~~ post office addresses of the officers of ~~such the~~
172 highway contractors' association and the duties and salaries of ~~such the~~ officers ~~and their~~
173 ~~salaries~~.

174 ~~(3)~~ 3. The property and income of ~~such the~~ highway contractors' association and by
175 whom the same is paid.

176 ~~(4)~~ 4. An itemized statement of the expenditures of such association.

177 ~~(5)~~ 5. A copy of the charter and bylaws, if incorporated, and a copy of the constitution
178 and bylaws, if unincorporated, of such association.

179 Such statements shall become public records.

180 **Drafting note: Technical changes.**

181 § ~~33.1-339~~ 33.2-xxx. Papers, accounts, and records open to examination by certain
182 officers.

183 All papers, accounts, and records of every nature, of every highway contractors'
184 association, a member of which submits a bid for any construction, maintenance, or repair of
185 any public highway or bridge or for the supplying of labor, material, or supplies for any such
186 construction, repair, or maintenance, whether such highway association ~~be is~~ domiciled in

187 Virginia or ~~be is~~ a foreign highway contractors' association doing business in Virginia, shall be
188 at all times during ~~the ordinary~~ business hours ~~of the day~~ open to examination and inspection by
189 the Governor, the Attorney General, the Comptroller, the Auditor of Public Accounts, the
190 ~~Commonwealth Transportation~~ Board and any member thereof, and the duly authorized agent or
191 representative of any of such officers or of the Board.

192 **Drafting note: Technical changes.**

193 § ~~33.1-340~~ 33.2-542. Effect of refusal to permit or withholding from examination of
194 papers, etc.

195 If any highway contractors' association, whether domiciled in Virginia or not, on
196 application of any person authorized by this ~~chapter article~~ to examine and inspect its records,
197 ~~shall refuse~~ refuses to permit such examination and inspection of its papers, accounts, and
198 records, or ~~fail fails~~ to produce at its principal office for examination and inspection any of its
199 papers, accounts, or records when requested so to do, or ~~shall~~ knowingly ~~withhold~~ withholds
200 from examination and inspection any of its papers, accounts, and records, for the purpose of
201 secreting any of its acts or activities, or the amount or sources of, or the use made of its revenue,
202 the person requesting or making such examination and inspection shall report the fact to the
203 Governor, who shall certify the fact to the Commissioner of Highways.

204 No contract for highway or highway bridge construction, repair, or maintenance or for
205 the supplying of any labor, materials, or supplies for such construction, repair, or maintenance
206 shall be thereafter let to any member of such association until the Governor ~~shall have~~ has
207 certified to the Board that a full examination and inspection of the papers, accounts, and records
208 of such association has been made with the free consent and cooperation of such association and
209 that such examination and inspection discloses nothing in the purposes, methods, or activities of
210 such association detrimental to the public interest or tending to prevent competition in or
211 increase the cost of highway and highway bridge construction, repair, or maintenance in ~~this~~ the
212 Commonwealth and that none of its revenue has been used for political purposes.

213 **Drafting note: Technical changes.**

214 § ~~33.1-341~~ 33.2-543. Effect of using certain methods or engaging in certain activities.
215 If upon any such inspection or examination as is ~~herein~~ provided for, in § 33.2-XXX it
216 ~~shall be is~~ found that any highway contractors' association of which any individual, partnership,
217 or corporation holding a contract for the construction, maintenance, or repair of any public
218 highway or bridge or for supplying any labor, materials, or supplies for any such construction,
219 repair, or maintenance, is a member, has made use of methods or engaged in activities tending
220 to prevent competition in the bidding on such contract or to increase the cost of such contract to
221 the Commonwealth or county or has brought to bear or endeavored to bring to bear political
222 influence to secure for such member such contract, then the ~~Commonwealth Transportation~~
223 Board may, at its option, cancel and annul such contract, paying thereon for the work done or
224 labor, material, and supplies furnished only the reasonable value of the work done or labor,
225 material, and supplies furnished.

226 **Drafting note: Technical changes.**

227 § ~~33.1-342~~ 33.2-544. Certificate to be filed with bid for highway or bridge construction,
228 etc.

229 Every individual, partnership, or corporation bidding upon any proposed contract for the
230 construction, repair, or maintenance of any part of any public highway or bridge and for
231 supplying any labor, material, or supplies to be used in any such construction, repair, or
232 maintenance shall file with such bid a sworn statement giving the name and location of the
233 principal office of every highway contractors' association of which ~~he it~~ is or has been a member
234 during the preceding ~~twelve~~ 12 months; ~~and no.~~ No bid not accompanied by such certificate
235 shall be considered by the ~~Commonwealth Transportation~~ Board in letting any contract bid
236 upon, nor shall any such contract be let by the Board to any bidder failing to file the certificate
237 required by this section.

238 **Drafting note: Technical changes.**

239 § ~~33.1-343~~ 33.2-545. Affidavit to be filed with bid upon work.

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

~~Article 5.~~

~~State Revenue Bond Act.~~

CHAPTER XXX.

TRANSPORTATION DEVELOPMENT AND REVENUE BOND ACT.

Drafting note: This article in existing Title 33.1 becomes a chapter in proposed Title 33.2, with a chapter title amended to more specifically indicate the chapter's purpose, i.e., this revenue bond act is specifically for the development of transportation. The amended chapter title mirrors the form of other bond acts of the Commonwealth, such as the Industrial Development and Revenue Bond Act and the State Park Development Revenue Bond Act.

~~§ 33.1-267. Short title.~~

~~This article shall be known, and may be cited, as the "State Revenue Bond Act."~~

Drafting note: This section is deleted as unnecessary 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 citation.

~~§ 33.1-268~~ 33.2-XXX. Definitions.

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

~~(1) The word "Board"~~ means the Commonwealth Transportation Board, or if the Commonwealth Transportation Board is abolished, any board, commission or officer succeeding to the principal functions thereof or upon whom the powers given by this ~~article~~ chapter to the Board shall be given by law.

~~(5) The term "cost"~~ Cost of the project, as applied to a project to be acquired by purchase or by condemnation, includes ~~the~~:

1. The purchase price or the amount of the award;

2. The cost of improvements, financing charges, and interest during any period of disuse before completion of improvements;

28 3. The cost of traffic estimates and of engineering data;
29 4. The cost of engineering and legal expenses;
30 5. The cost of plans, specifications and surveys, and estimates of cost and of revenues,
31 other; and
32 6. Other expenses necessary or incident to determining the feasibility or practicability of
33 the enterprises, administrative expenses, and such other expenses as may be necessary or
34 incident to the financing ~~herein~~ authorized in this chapter and the acquisition of the project and
35 the placing of the project in operation.

36 ~~(6) The term "cost"~~ Cost of the project, as applied to a project to be constructed,
37 ~~embraces the~~ includes:

38 1. The cost of construction, ~~the;~~
39 2. The cost of all lands, properties, rights, easements, and franchises acquired ~~which that~~
40 are deemed necessary for such construction, ~~the;~~

41 3. The cost of acquiring by purchase or condemnation any ferry ~~which that~~ is deemed by
42 the Board to be competitive with any bridge to be constructed, ~~the;~~

43 4. The cost of all machinery and equipment;

44 5. The cost of financing charges, and interest prior to ~~and construction,~~ during
45 construction, and for one year after completion of construction;

46 6. The cost of traffic estimates and of engineering data;

47 7. The cost of engineering and legal expenses;

48 8. The cost of plans, specifications and surveys, estimates of cost and of revenues, ~~other;~~
49 and

50 9. Other expenses necessary or incident to determining the feasibility or practicability of
51 the enterprise, administrative ~~expense expenses,~~ and such other expenses as may be necessary or
52 incident to the financing ~~herein~~ authorized in this chapter, the construction of the project, the
53 placing of the project in operation, and the condemnation of property necessary for such
54 construction and operation.

55 ~~(4) The word "improvements"~~ "Improvements" means ~~such those~~ repairs to,
56 replacements of, additions to, and betterments of ~~and to~~ a project acquired by purchase or by
57 condemnation as are deemed necessary to place it in a safe and efficient condition for the use of
58 the public, if such repairs, replacements, additions, and betterments are ordered prior to the sale
59 of any bonds for the acquisition of such project.

60 ~~(7) The word "owner"~~ "Owner" includes all individuals, incorporated companies,
61 copartnerships, societies ~~or,~~ and associations having any title or interest in any property rights,
62 easements, or franchises authorized to be acquired by this ~~article~~ chapter.

63 ~~(2) The word "project" or "projects"~~ "Project" means any one or more of the following:

64 ~~(a) 1. The~~ 1. The York River Bridges, extending from a point within ~~the Town of~~ Yorktown in
65 York County, or within York County across the York River to Gloucester Point or some point in
66 Gloucester County.

67 ~~(b) 2. The~~ 2. The Rappahannock River Bridge, extending from Greys Point, or its vicinity, in
68 Middlesex County, across the Rappahannock River to a point in the vicinity of White Stone, in
69 Lancaster County, or at some other feasible point in the general vicinity of the two respective
70 points.

71 ~~(c), (d) [Reserved.]~~

72 ~~(e) 3. The~~ 3. The James River Bridge, from a point at or near Jamestown, in James City County,
73 across the James River to a point in Surry County.

74 ~~(f), (g) [Reserved.]~~

75 ~~(h) 4. The~~ 4. The James River, Chuckatuck, and Nansemond River Bridges, together with
76 necessary connecting roads, in the Cities of Newport News and Suffolk and the County of Isle
77 of Wight.

78 ~~(i) [Reserved.]~~

79 ~~(j) 5. The~~ 5. The Hampton Roads ~~Bridge, Tunnel, or Bridge and Tunnel System~~ Bridge-Tunnel,
80 extending from a point or points in the Cities of Newport News and Hampton on the northwest

81 shore of Hampton Roads across Hampton Roads to a point or points in the City of Norfolk or
82 Suffolk on the southeast shore of Hampton Roads.

83 ~~(k) The Norfolk-Virginia Beach Highway 6, Interstate 264~~, extending from a point in the
84 vicinity of the intersection of Interstate Route 64 and ~~Primary U.S.~~ Route 58 at Norfolk to some
85 feasible point between London Bridge and ~~Primary U.S.~~ Route 60.

86 ~~(l) 7.~~ The Henrico-James River Bridge, extending from a point on the eastern shore of
87 the James River in Henrico County to a point on the western shore, between Falling Creek and
88 Bells Road interchanges of ~~the Richmond-Petersburg Turnpike Interstate 95~~; however, the
89 project shall be deemed to include all property, rights, easements, and franchises relating to ~~any~~
90 ~~of the foregoing projects~~ this project and deemed necessary or convenient for ~~the its~~ operation
91 ~~thereof and to include, including its~~ approaches ~~thereto~~.

92 ~~(m) 8.~~ The limited access highway between the ~~Patrick-Henry Newport~~
93 ~~News/Williamsburg International~~ Airport area and the Newport News downtown area, which
94 generally runs parallel to tracks of the Chesapeake and Ohio Railroad.

95 ~~(n) 9.~~ Transportation improvements in the Dulles Corridor, with an eastern terminus of
96 the East Falls Church Metrorail station at Interstate ~~Route~~ 66 and a western terminus of Virginia
97 Route 772 in Loudoun County, including without limitation the Dulles Toll Road; the Dulles
98 Access Road; outer roadways adjacent or parallel thereto; mass transit, including rail; bus
99 rapid transit; and ~~capacity-enhancing capacity-enhancing~~ treatments such as ~~High-Occupancy~~
100 ~~Vehicle high-occupancy vehicle~~ lanes, ~~High-Occupancy Toll (HOT) high-occupancy toll~~ lanes,
101 interchange improvements, commuter parking lots, and other transportation management
102 strategies.

103 ~~(o), (p) [Repealed.]~~

104 ~~(q) 10.~~ Subject to the limitations and approvals of § ~~33.1-279.1 33.2-XXX~~, any other
105 highway for a primary highway transportation improvement district or transportation service
106 district ~~which that~~ the Board has agreed to finance under a contract with any such district or any
107 other alternative mechanism for generation of local revenues for specific funding of a project

108 | satisfactory to the ~~Commonwealth Transportation~~ Board, the financing for which is to be
109 | secured by Transportation Trust Fund revenues under any appropriation made by the General
110 | Assembly for that purpose and payable first from revenues received under such contract or other
111 | local funding source; second, to the extent required, from funds appropriated and allocated,
112 | pursuant to the highway allocation formula as provided by law, to the highway construction
113 | district in which the project is located or to the county or counties in which the project is
114 | located; and third, to the extent required from other legally available revenues of the
115 | Transportation Trust Fund and from any other available source of funds.

116 | ~~(r)~~ 11. The U.S. Route 58 Corridor Development Program projects as defined in §§ ~~33.1-~~
117 | ~~221.1:2~~ 33.2-XXX and ~~58.1-815~~ 33.2-xxx.

118 | ~~(s)~~ 12. The Northern Virginia Transportation District Program as defined in ~~§ 33.1-~~
119 | ~~221.1:3~~ §§ 33.2-XXX and 33.2-xxx.

120 | ~~(t)~~ 13. Any program for highways or mass transit or transportation facilities; endorsed by
121 | ~~the local jurisdiction or jurisdictions~~ all localities affected, which agree that certain distributions
122 | of state recordation taxes will be dedicated and used for the payment of any bonds or other
123 | obligations, including interest thereon, the proceeds of which were used to pay the cost of the
124 | program. Any such program shall be referred to as a "Transportation Improvement Program."

125 | ~~(u)~~ 14. Any project designated from time to time by the General Assembly financed in
126 | whole or part through the issuance of Commonwealth of Virginia Federal Highway
127 | Reimbursement Anticipation Notes.

128 | ~~(v)~~ 15. Any project authorized by the General Assembly financed in whole or in part by
129 | funds from the Priority Transportation Fund established pursuant to § ~~33.1-23.03:8~~ 33.2-XXX
130 | or from the proceeds of bonds whose debt service is paid in whole or in part by funds from such
131 | Fund.

132 | ~~(w)~~ 16. Any project identified by the ~~Commonwealth Transportation~~ Board to be
133 | financed in whole or in part through the issuance of Commonwealth of Virginia Federal
134 | Transportation Grant Anticipation Revenue Notes.

135 ~~(8) [Repealed.]~~

136 ~~(9) The words "revenue" and "revenues" include "Revenues" includes~~ tolls and any other
137 moneys received or pledged by the Board pursuant to this ~~article chapter~~, including, ~~without~~
138 ~~limitation~~, legally available Transportation Trust Fund revenues and any federal highway
139 reimbursements and any other federal highway assistance received from time to time by the
140 Commonwealth.

141 ~~(10) The terms "toll" "Toll project" and "toll projects" mean projects means a project~~
142 financed in whole or in part through the issuance of revenue bonds ~~which that~~ are secured by
143 toll revenues generated by ~~such the~~ project ~~or projects~~.

144 ~~(3) The word "undertaking" "Undertaking" means all of the projects authorized to be~~
145 acquired or constructed under this ~~article chapter~~.

146 **Drafting note: The existing definitions section for this chapter is rewritten to**
147 **conform it to current Code usage, including putting definitions in alphabetical order.**
148 **Technical changes are also made, including removing duplicative terms pursuant to § 1-**
149 **277.**

150 § ~~33.1-269~~ 33.2-XXX. General powers of Commonwealth Transportation Board.

151 The ~~Commonwealth Transportation~~ Board may, subject to the provisions of this ~~article~~
152 chapter:

153 1. Acquire by purchase or by condemnation, construct, improve, operate, and maintain
154 any one or more of the projects mentioned and included in the undertaking ~~defined in this article~~
155 as defined in § 33.2-XXX;

156 2. Issue revenue bonds of the Commonwealth, to be known and designated as
157 "Commonwealth of Virginia Toll Revenue Bonds," payable from earnings and from any other
158 available sources of funds, to pay the cost of such projects;

159 3. Subject to the limitations and approvals of § ~~33.1-279.1~~ 33.2-XXX, issue revenue
160 bonds of the Commonwealth to be known and designated as "Commonwealth of Virginia
161 Transportation Contract Revenue Bonds," secured by Transportation Trust Fund revenues under

162 a payment agreement between the Board and the Treasury Board, subject to their appropriation
163 by the General Assembly and payable first from revenues received pursuant to contracts with a
164 primary highway transportation improvement district or transportation service district or other
165 local revenue sources for which specific funding of any such bonds may be authorized by law;
166 second, to the extent required, from funds appropriated and allocated, pursuant to the highway
167 allocation formula as provided by law, to the highway construction district in which the project
168 ~~or projects~~ to be financed ~~are~~ is located or to the county or counties in which the project ~~or~~
169 ~~projects~~ to be financed ~~are~~ is located; and third, to the extent required, from other legally
170 available revenues of the Transportation Trust Fund and from any other available source of
171 funds;

172 4. Issue revenue bonds of the Commonwealth to be known and designated as
173 "Commonwealth of Virginia Transportation Revenue Bonds," secured (i) by revenues received
174 from the U.S. Route 58 Corridor Development Fund, subject to their appropriation by the
175 General Assembly; (ii) to the extent required, from revenues legally available from the
176 Transportation Trust Fund; and (iii) to the extent required, from any other legally available
177 funds ~~which that~~ have been appropriated by the General Assembly;

178 ~~4a-5.~~ Issue revenue bonds of the Commonwealth to be known and designated as
179 "Commonwealth of Virginia Transportation Revenue Bonds," secured, subject to their
180 appropriation by the General Assembly, ~~(i)~~ first from ~~(+)~~ revenues received from the Northern
181 Virginia Transportation District Fund; (ii) to the extent required, from funds appropriated and
182 allocated, pursuant to the highway allocation formula as provided by law, to the highway
183 construction district in which the project ~~or projects~~ to be financed ~~are~~ is located or to the city or
184 county in which the project ~~or projects~~ to be financed ~~are~~ is located; (iii) to the extent required,
185 from legally available revenues of the Transportation Trust Fund; and (iv) from such other
186 funds ~~which that~~ may be appropriated by the General Assembly;

187 ~~4b-6.~~ Issue revenue bonds of the Commonwealth to be known and designated as
188 "Commonwealth of Virginia Transportation Program Revenue Bonds," secured, subject to their

189 appropriation by the General Assembly, (i) first from ~~(i)~~ any revenues received from any Set-
190 aside Fund established by the General Assembly pursuant to § 58.1-816.1_;; (ii) to the extent
191 required, from revenues received pursuant to any contract with a ~~local jurisdiction~~ locality or
192 any alternative mechanism for generation of local revenues for specific funding of a project
193 satisfactory to the ~~Commonwealth Transportation~~ Board_;; (iii) to the extent required, from funds
194 appropriated and allocated, pursuant to the highway allocation formula as provided by law, to
195 the highway construction district in which the project ~~or projects~~ to be financed are is located or
196 to the city or county in which the project ~~or projects~~ to be financed are is located_;; (iv) to the
197 extent required, from legally available revenues of the Transportation Trust Fund_;; and (v) from
198 such other funds ~~which that~~ may be appropriated by the General Assembly. No bonds for any
199 project ~~or projects~~ shall be issued under the authority of this ~~subsection~~ subdivision unless such
200 project ~~or projects are is~~ specifically included in a bill or resolution passed by the General
201 Assembly;

202 4e. 7. Issue revenue bonds of the Commonwealth to be known and designated as
203 "Commonwealth of Virginia Transportation Program Revenue Bonds_;" secured, subject to their
204 appropriation by the General Assembly, (i) first from ~~(i)~~ any revenues received from the
205 Commonwealth Transit Capital Fund established by the General Assembly pursuant to
206 subdivision A 4 g of § 58.1-638_;; (ii) to the extent required, from legally available revenues of
207 the Transportation Trust Fund_;; and (iii) from such other funds ~~which that~~ may be appropriated
208 by the General Assembly. No bonds for any project ~~or projects~~ shall be issued under the
209 authority of this ~~subsection~~ subdivision unless such project ~~or projects are is~~ specifically
210 included in a bill or resolution passed by the General Assembly;

211 4d. 8. Issue revenue bonds of the Commonwealth from time to time to be known and
212 designated as "Commonwealth of Virginia Federal Highway Reimbursement Anticipation
213 Notes_;" secured, subject to their appropriation by the General Assembly, ~~(i)~~ first from any
214 federal highway reimbursements and any other federal highway assistance received from time to
215 time by the Commonwealth_;; (ii) ~~then,~~ at the discretion of the Board, to the extent required,

216 from legally available revenues of the Transportation Trust Fund;² and (iii) ~~then~~ from such other
217 funds, if any, ~~which that~~ are designated by the General Assembly for such purpose;

218 ~~4e-9.~~ 4e-9. Issue revenue bonds of the Commonwealth from time to time to be known and
219 designated as "Commonwealth of Virginia Credit Assistance Revenue Bonds," secured, subject
220 to their appropriation by the General Assembly, solely from revenues with respect to or
221 generated by the project ~~or projects~~ being financed thereby and any tolls or other revenues
222 pledged by the Board as security therefor and in accordance with the applicable federal credit
223 assistance authorized with respect to such project ~~or projects~~ by the ~~United States~~ U.S.
224 Department of Transportation;

225 ~~4f-10.~~ 4f-10. Issue revenue bonds of the Commonwealth to be known and designated as
226 "Commonwealth of Virginia Transportation Capital Projects Revenue Bonds," secured, subject
227 to their appropriation by the General Assembly, (i) from the revenues deposited into the Priority
228 Transportation Fund established pursuant to § ~~33.1-23.03:8~~ 33.2-XXX; (ii) to the extent
229 required, from revenues legally available from the Transportation Trust Fund; and (iii) to the
230 extent required, from any other legally available funds;

231 ~~4g-11.~~ 4g-11. Issue grant anticipation notes of the Commonwealth from time to time to be
232 known and designated as "Commonwealth of Virginia Federal Transportation Grant
233 Anticipation Revenue Notes," secured, subject to their appropriation by the General Assembly,
234 (i) first from the project-specific reimbursements pursuant to § ~~33.1-23.23~~ 33.2-XXX; (ii) ~~then~~,
235 at the discretion of the Board, to the extent required, from legally available revenues of the
236 Transportation Trust Fund; and (iii) ~~then~~ from such other funds, if any, ~~which that~~ are
237 designated by the General Assembly for such purpose;

238 ~~5-12.~~ 5-12. Fix and collect tolls and other charges for the use of such projects or to refinance
239 the cost of such projects;

240 ~~6-13.~~ 6-13. Construct grade separations at intersections of any projects with public highways,
241 railways, streets ~~or other public ways or places and change~~ and adjust the lines and grades
242 thereof so as to accommodate the same to the design of such grade separations, the cost of such

243 grade separations and any damage incurred in ~~changing and~~ adjusting the lines and grades of
244 such highways, or streets, ~~ways, and places~~ to be ascertained and paid by the Board as a part of
245 the cost of the project;

246 ~~7-14.~~ Vacate or change the location of any portion of any public highway, ~~street or other~~
247 ~~public way or place~~ and reconstruct the same at such new location as the Board deems most
248 favorable for the project and of substantially the same type and in as good condition as the
249 original highway, ~~streets, way or place~~, the cost of such reconstruction and any damage incurred
250 in vacating or changing the location thereof to be ascertained and paid by the Board as a part of
251 the cost of the project. Any public highway, ~~street or other public way or place~~ vacated or
252 relocated by the Board shall be vacated or relocated in the manner provided by law for the
253 vacation or relocation of public ~~roads~~ highways, and any damages awarded on account thereof
254 may be paid by the Board as a part of the cost of the project;

255 ~~8-15.~~ Make reasonable regulations for the installation, construction, maintenance, repair,
256 renewal, and relocation of pipes, mains, sewers, conduits, cables, wires, towers, poles, and other
257 equipment and appliances, ~~herein called~~ referred to in this subdivision as "public utility
258 facilities," of the Commonwealth and of any ~~municipality, county, or other~~ locality, political
259 subdivision, public utility, or public service corporation owning or operating the same in, on,
260 along, over, or under the project. Whenever the Board determines that it is necessary that any
261 such public utility facilities should be relocated or removed, the Commonwealth or such
262 ~~municipality, county~~ locality, political subdivision, public utility, or public service corporation
263 shall relocate or remove the same in accordance with the order of the Board. The cost and
264 expense of such relocation or removal, including the cost of installing such public utility
265 facilities in a new location or locations, ~~and~~ the cost of any lands or any rights or interests in
266 lands, and any other rights acquired to accomplish such relocation or removal, shall be
267 ascertained by the Board.

268 On any toll project, the Board shall pay the cost and expense of relocation or removal as
269 a part of the cost of the project for those public utility facilities owned or operated by the

270 Commonwealth or such ~~municipality, county~~ locality, political subdivision, public utility, or
271 public service corporation. On all other projects, under this ~~article~~ chapter, the Board shall pay
272 the cost and expense of relocation or removal as a part of the cost of the project for those public
273 utility facilities owned or operated by the Commonwealth or such ~~municipality, county~~ locality
274 or political subdivision. The Commonwealth or such ~~municipality, county~~ locality, political
275 subdivision, public utility, or public service corporation may maintain and operate such public
276 utility facilities with the necessary appurtenances, in the new location ~~or locations~~, for as long a
277 period and upon the same terms and conditions as it had the right to maintain and operate such
278 public utility facilities in their former location ~~or locations~~;

279 9-16. Acquire by the exercise of the power of eminent domain any lands, property,
280 rights, rights-of-way, franchises, easements, and other property, including public lands, parks,
281 playgrounds, reservations, highways, or parkways, or parts thereof or rights therein, of any
282 ~~municipality, county~~ locality or ~~other~~ political subdivision, deemed necessary or convenient for
283 the construction or the efficient operation of the project or necessary in the restoration,
284 replacement, or relocation of public or private property damaged or destroyed.

285 The cost of such projects shall be paid solely from the proceeds of Commonwealth of
286 Virginia Toll or Transportation Contract Revenue Bonds or a combination thereof or from such
287 proceeds and from any grant or contribution ~~which that~~ may be made thereto pursuant to the
288 provisions of this ~~article~~ chapter;

289 10-17. Notwithstanding any provision of this ~~article~~ chapter to the contrary, the Board
290 shall be authorized to exercise the powers conferred ~~herein in this chapter~~, in addition to its
291 general powers to acquire rights-of-way and to construct, operate, and maintain state highways,
292 with respect to any project ~~which that~~ the General Assembly has authorized or may hereafter
293 authorize to be financed in whole or in part through the issuance of bonds of the Commonwealth
294 pursuant to the provisions of Article X, Section 9 (c) ~~of Article X~~ of the Constitution of
295 Virginia; and

296 ~~11-18.~~ Enter into any agreements or take such other actions as the Board ~~shall determine~~
297 ~~determines~~ in connection with applying for or obtaining any federal credit assistance, including
298 without limitation loan guarantees and lines of credit, pursuant to authorization from the ~~United~~
299 ~~States~~ U.S. Department of Transportation with respect to any project included in the
300 Commonwealth's long-range transportation plan and the approved State Transportation
301 Improvement Program.

302 **Drafting note: Technical changes. This section was amended by Senate Bill 1140**
303 **during the 2013 Session and the changes incorporated into Acts of Assembly Chapter 639**
304 **add "railways" in what is now subdivision 6. This change is incorporated here, although**
305 **the change does not speak to the cost.**

306 § ~~33.1-270~~ 33.2-XXX. Acquisition and construction of projects.

307 The Board shall acquire or construct, under the provisions of this ~~article chapter~~, each of
308 the projects included in the undertaking, at the earliest dates deemed by the Board to be feasible
309 for the acquisition or construction of each project and ~~the its~~ financing ~~thereof~~ under this ~~article~~
310 ~~chapter~~.

311 **Drafting note: Technical changes.**

312 § ~~33.1-271~~ 33.2-XXX. Purchase of projects.

313 The Board may acquire by purchase, whenever it ~~shall deem~~ deems such purchase
314 expedient, any of the projects set forth in ~~subdivision (2) of § 33.1-268~~ the definition of
315 "project" in § 33.2-XXX, upon such terms and at such prices as may be reasonable and can be
316 agreed upon between the Board and the owner thereof, title thereto to be taken in the name of
317 the Commonwealth. The Board shall issue revenue bonds of the Commonwealth, as ~~hereinafter~~
318 ~~provided~~, in this chapter to pay the cost of such acquisition.

319 **Drafting note: Technical changes.**

320 § ~~33.1-272~~ 33.2-XXX. Condemnation of projects and property.

321 ~~The Board, whenever~~ A. Whenever a reasonable price cannot be agreed upon or
322 whenever the owner is legally incapacitated ~~or is~~, absent ~~or is~~, unable to convey valid title, ~~or is~~

323 unknown, the Board may acquire by condemnation any project ~~or projects~~ contemplated by §
324 ~~33.1-271 33.2-XXX~~ or interest ~~or interests~~ therein and any lands, rights, easements, franchises,
325 and other property deemed necessary or convenient for the improvement or the efficient
326 operation of any project acquired or constructed under this ~~article~~ chapter, or for the purpose of
327 constructing any project or portion thereof ~~hereunder~~ pursuant to this chapter, or for securing a
328 right-of-way leading to any such project or its approaches, in the manner ~~hereinafter~~ provided in
329 this chapter. Such condemnation proceedings shall be conducted and the compensation to be
330 paid shall be ascertained and paid in the manner provided by law with reference to the
331 condemnation of property by the Board for state highway purposes.

332 B. Title to any property condemned by the Board shall be taken in the name of the
333 Commonwealth. The Commonwealth shall be under no obligation to accept and pay for any
334 property condemned or any cost incidental to any condemnation proceedings and shall, ~~in no~~
335 ~~event, not~~ pay for the same except from the funds provided by this ~~article~~ chapter; and in any
336 condemnation proceedings, the court having jurisdiction of the suit, action,² or proceeding may
337 make such orders as may be just to the Commonwealth and to the owners of the property to be
338 condemned and may require an undertaking or other security to secure such owners against any
339 loss or damage to be sustained by reason of the failure of the Commonwealth to accept and pay
340 for the property, but such undertaking or security shall impose no liability upon the
341 Commonwealth, except such as may be paid from the funds provided under the authority of this
342 ~~article; chapter~~, provided, ~~however~~, that condemnation shall not lie in any case when the
343 Commonwealth, in granting a franchise to any project named ~~herein~~ in this chapter, has
344 stipulated the terms upon which it may acquire such project.

345 **Drafting note: Technical changes.**

346 § ~~33.1-273 33.2-XXX~~. Improvement of projects acquired.

347 The Board, at or before the time any such project ~~shall be~~ is acquired by purchase or by
348 condemnation, shall determine what repairs, replacements, additions,² or betterments will be
349 necessary to place the project in safe and efficient condition for the use of the public and shall

350 cause an estimate of the cost of such improvement to be made. The Board shall authorize such
351 improvements before the sale of any revenue bonds for the acquisition of such project, and the
352 cost of such improvements shall be paid for out of the proceeds of such bonds.

353 **Drafting note: Technical changes.**

354 § ~~33.1-274~~ 33.2-XXX. Construction of projects.

355 The Board may construct, whenever it ~~shall deem~~ deems such construction expedient,
356 any of the projects set forth in ~~subdivision (2) of § 33.1-268~~ the definition of "project" in § 33.2-
357 XXX. The Board may purchase within ~~this the~~ Commonwealth, solely from funds provided
358 under the authority of this ~~article chapter~~, such lands, structures, rights-of-way, franchises,
359 easements, and other interests in lands, including lands under water and riparian rights of any
360 person, copartnership, association, railroad or other corporation, or municipality or political
361 subdivision, deemed necessary for the construction of any project, upon such terms and at such
362 prices as may be considered by it to be reasonable and can be agreed upon between it and the
363 owner thereof and may take title thereto in the name of the Commonwealth. The
364 Commonwealth hereby consents to the use of all lands lying under water, ~~which that~~ are within
365 the Commonwealth and are necessary for the construction and operation of any project and the
366 approaches and appurtenances thereto, ~~which that~~ may be constructed under the provisions of
367 this ~~article chapter~~. All public or private property damaged or destroyed in carrying out the
368 powers granted hereunder shall be restored or repaired and placed in the original condition, as
369 nearly as practicable, or adequate compensation made therefor, out of funds provided under the
370 authority of this ~~article chapter~~.

371 **Drafting note: Technical changes.**

372 § ~~33.1-275~~ 33.2-XXX. Highway connections.

373 Upon the letting of a contract for the construction of a project under the provisions of
374 this ~~article chapter~~, the Board shall proceed with the construction of any highways ~~which that~~
375 may be necessary to connect ~~such the~~ project with state highways in the Commonwealth and to

376 complete the construction of ~~such the~~ connecting highways on or before the date ~~such the~~
377 project ~~shall be is~~ opened for traffic.

378 **Drafting note: Technical changes.**

379 § ~~33.1-276~~ 33.2-XXX. Revenue bonds.

380 The Board may provide by resolution, at one time or from time to time, for the issuance
381 of revenue bonds, notes, or other revenue obligations of the Commonwealth for the purpose of
382 paying all or any part of the cost, as ~~hereinabove~~ defined in § 33.2-XXX, of any one or more
383 projects, as ~~hereinabove~~ defined in § 33.2-XXX. The principal or purchase price of, and
384 redemption premium, if any, and interest on such obligations shall be payable solely from the
385 special funds herein provided for such payment. ~~"Special funds" for~~ For the purposes of this
386 section ~~shall include, "special funds" includes~~ any ~~such~~ funds established for Commonwealth of
387 Virginia Toll Revenue Bonds, Commonwealth of Virginia Transportation Contract Revenue
388 Bonds, Commonwealth of Virginia Transportation Revenue Bonds, Commonwealth of Virginia
389 Federal Highway Reimbursement Anticipation Notes, or Commonwealth of Virginia Federal
390 Transportation Grant Anticipation Revenue Notes.

391 **Drafting note: Technical changes.**

392 § ~~33.1-277~~ 33.2-XXX. Credit of Commonwealth not pledged.

393 A. Commonwealth of Virginia Toll Revenue Bonds issued under the provisions of this
394 ~~article chapter~~ shall not be deemed to constitute a debt of the Commonwealth ~~of Virginia~~ or a
395 pledge of the full faith and credit of the Commonwealth, but such bonds shall be payable solely
396 from the funds ~~herein~~ provided therefor from tolls and revenues pursuant to this chapter, from
397 bond proceeds or earnings thereon, and from any other available sources of funds. All such
398 bonds shall state on their face that the Commonwealth ~~of Virginia~~ is not obligated to pay the
399 same or the interest thereon except from the special fund provided therefor from tolls and
400 revenues under this ~~article chapter~~, from bond proceeds or earnings thereon, and from any other
401 available sources of funds, and that the full faith and credit of the Commonwealth are not
402 pledged to the payment of the principal or interest of such bonds. The issuance of such revenue

403 | bonds under the provisions of this ~~article chapter~~ shall not directly or indirectly or contingently
404 | obligate the Commonwealth to levy or to pledge any form of taxation whatever therefor or to
405 | make any appropriation for their payment, other than appropriate available funds derived as
406 | revenues from tolls and charges under this ~~article chapter~~ or derived from bond proceeds or
407 | earnings thereon and from any other available sources of funds.

408 | B. Commonwealth of Virginia Transportation Contract Revenue Bonds issued under the
409 | provisions of this ~~article chapter~~ shall not be deemed to constitute a debt of the Commonwealth
410 | ~~of Virginia~~ or a pledge of the full faith and credit of the Commonwealth, but such bonds shall be
411 | payable solely from the funds ~~herein~~ provided therefor pursuant to this chapter (i) first from
412 | revenues received pursuant to contracts with a primary highway transportation district or
413 | transportation service district or any other alternative mechanism for generation of local
414 | revenues for specific funding of a project satisfactory to the ~~Commonwealth Transportation~~
415 | ~~Board~~; (ii) to the extent required, from funds appropriated and allocated, pursuant to the
416 | highway allocation formula as provided by law, to the highway construction district in which
417 | the project ~~or projects~~ to be financed ~~are is~~ located or to the county or counties in which such
418 | project ~~or projects are is~~ located; (iii) from bond proceeds or earnings thereon; (iv) to the
419 | extent required, from other legally available revenues of the Transportation Trust Fund; and (v)
420 | from any other available source of funds. All such bonds shall state on their face that the
421 | Commonwealth ~~of Virginia~~ is not obligated to pay the same or the interest thereon except from
422 | revenues in clauses (i) and (iii) and that the full faith and credit of the Commonwealth are not
423 | pledged to the payment of the principal and interest of such bonds. The issuance of such revenue
424 | bonds under the provisions of this ~~article chapter~~ shall not directly or indirectly or contingently
425 | obligate the Commonwealth to levy or to pledge any form of taxation whatever or to make any
426 | appropriation for their payment, other than to appropriate available funds derived as revenues
427 | under this ~~article chapter~~ from the sources set forth in clauses (i) and (iii). Nothing in this ~~article~~
428 | ~~chapter~~ shall be construed to obligate the General Assembly to make any appropriation of the
429 | funds set forth in clause (ii) or (iv) for payment of such bonds.

430 C. Commonwealth of Virginia Transportation Revenue Bonds issued under the
431 provisions of this ~~article chapter~~ shall not be deemed to constitute a debt of the Commonwealth
432 ~~of Virginia~~ or a pledge of the full faith and credit of the Commonwealth, but such bonds shall be
433 payable solely from the funds ~~herein~~ provided therefor pursuant to this chapter (i) from revenues
434 received from the U.S. Route 58 Corridor Development Fund established pursuant to § 58.1-
435 815, subject to their appropriation by the General Assembly; (ii) to the extent required, from
436 revenues legally available from the Transportation Trust Fund; and (iii) to the extent required,
437 from any other legally available funds ~~which shall have been that may be~~ appropriated by the
438 General Assembly.

439 D. Commonwealth of Virginia Transportation Revenue Bonds issued under this ~~article~~
440 chapter for Category 1 projects as provided in subdivision ~~(2) (s) XXX~~ of § ~~33.1-268 33.2-XXX~~
441 shall not be deemed to constitute a debt of the Commonwealth ~~of Virginia~~ or a pledge of the full
442 faith and credit of the Commonwealth. Such bonds shall be payable solely, subject to their
443 appropriation by the General Assembly, (i) first from ~~(i)~~ revenues received from the Northern
444 Virginia Transportation District Fund; established pursuant to § 33.2-xxx; (ii) to the extent
445 required, from funds appropriated and allocated, pursuant to the highway allocation formula as
446 provided by law, to the highway construction district in which the project ~~or projects~~ to be
447 financed ~~are is~~ located or to the city or county in which the project ~~or projects~~ to be financed ~~are~~
448 is located; (iii) to the extent required, from legally available revenues of the Transportation
449 Trust Fund; and (iv) from such other funds ~~which that~~ may be appropriated by the General
450 Assembly.

451 E. Commonwealth of Virginia Transportation Program Revenue Bonds issued under this
452 ~~article chapter~~ for projects defined in subdivision ~~(2) (t) XXX~~ of § ~~33.1-268 33.2-XXX~~ shall not
453 be deemed to constitute a debt of the Commonwealth or a pledge of the full faith and credit of
454 the Commonwealth. Such bonds shall be payable solely, subject to their appropriation by the
455 General Assembly, (i) first from ~~(i)~~ any revenues received from any Set-aside Fund established
456 by the General Assembly pursuant to § 58.1-816.1; (ii) to the extent required, from revenues

457 received pursuant to any contract with a ~~local jurisdiction~~ locality or any alternative mechanism
458 for generation of local revenues for specific funding of a project satisfactory to the
459 ~~Commonwealth Transportation~~ Board; (iii) to the extent required, from funds appropriated and
460 allocated, pursuant to the highway allocation formula as provided by law, to the highway
461 construction district in which the project ~~or projects~~ to be financed ~~are is~~ located or to the city or
462 county in which the project ~~or projects~~ to be financed ~~are is~~ located; (iv) to the extent required,
463 from legally available revenues from the Transportation Trust Fund; and (v) from such other
464 funds ~~which that~~ may be appropriated by the General Assembly.

465 F. Commonwealth of Virginia Federal Highway Reimbursement Anticipation Notes
466 issued under this ~~article chapter~~ shall not be deemed to constitute a debt of the Commonwealth
467 ~~of Virginia~~ or a pledge of the full faith and credit of the Commonwealth, but such obligations
468 shall be payable solely, subject to appropriation by the General Assembly, (i) first from any
469 federal highway reimbursements and any other federal highway assistance received ~~from time to~~
470 ~~time~~ by the Commonwealth; (ii) then, at the discretion of the Board, to the extent required,
471 from legally available revenues of the Transportation Trust Fund; and (iii) then, from such
472 other funds, if any, ~~which that~~ are designated by the General Assembly for such purpose.

473 G. Commonwealth of Virginia Transportation Credit Assistance Revenue Bonds issued
474 under the provisions of this ~~article chapter~~ shall not be deemed to constitute a debt of the
475 Commonwealth ~~of Virginia~~ or a pledge of the full faith and credit of the Commonwealth, but
476 such obligations shall be payable solely, subject to appropriation by the General Assembly, from
477 revenues with respect to or generated by the project ~~or projects~~ being financed thereby and any
478 tolls or other revenues pledged by the Board as security therefor and in accordance with the
479 applicable federal credit assistance authorized with respect to such project ~~or projects~~ by the
480 ~~United States~~ U.S. Department of Transportation.

481 H. Commonwealth of Virginia Transportation Capital Projects Revenue Bonds issued
482 under the provisions of this ~~article chapter~~ for projects as provided in subdivision ~~(2) (v)~~ XXX
483 of § ~~33.1-268~~ 33.2-XXX shall not be deemed to constitute a debt of the Commonwealth ~~of~~

484 ~~Virginia~~ or a pledge of the full faith and credit of the Commonwealth, but such bonds shall be
485 payable solely, subject to their appropriation by the General Assembly, (i) from the revenues
486 deposited into the Priority Transportation Fund established pursuant to § ~~33.1-23.03:8~~ 33.2-
487 XXX; (ii) to the extent required, from revenues legally available from the Transportation Trust
488 Fund; and (iii) to the extent required, from any other legally available funds.

489 I. Commonwealth of Virginia Federal Transportation Grant Anticipation Revenue Notes
490 issued under the provisions of ~~Article 1.3 (§ 33.1-23.14 et seq.) of Chapter 1 §§ 33.2-XXX~~
491 through 33.2-XXX and this ~~article chapter~~ shall not be deemed to constitute a debt of the
492 Commonwealth ~~of Virginia~~ or a pledge of the full faith and credit of the Commonwealth, but
493 such notes shall be payable solely, subject to their appropriation by the General Assembly, (i)
494 first from the project-specific reimbursements pursuant to § ~~33.1-23.23, 33.2-XXX~~; (ii) then, at
495 the discretion of the Board, to the extent required, from legally available revenues of the
496 Transportation Trust Fund~~;~~; and (iii) then from such other funds, if any, ~~which that~~ are
497 designated by the General Assembly for such purpose.

498 **Drafting note: Technical changes.**

499 § ~~33.1-278~~ 33.2-XXX. Form and terms of bonds.

500 The bonds of such issue shall be dated, shall bear interest at such rate or rates~~,~~ and shall
501 mature at such time or times, not exceeding ~~forty~~ 40 years from their date or dates, as may be
502 determined by the Board or by formula or method established by resolution of the Board, and
503 may be made redeemable before maturity, at the option of the Board, at such price or prices and
504 under such terms and conditions as may be fixed by the Board prior to the issuance of the bonds.
505 The principal or purchase price of~~;~~ and redemption premium, if any, and interest on~~;~~ such bonds
506 may be made payable in any lawful medium. The payments of principal and interest may be
507 uniform in amount over the life of the bond; however, such uniformity shall not be a
508 prerequisite to the issuance of such bonds. The Board shall determine the form of the bonds,
509 including any interest coupons to be attached thereto, and shall fix the denomination or
510 denominations of the bonds and the place or places of payment of principal and interest thereof,

511 which may be at any bank or trust company within or without the Commonwealth. The bonds
512 shall be signed by the chairman or vice-chairman of the Board, and the official seal of the Board
513 shall be affixed thereto and attested by the secretary or assistant secretary of the Board, and any
514 coupons attached thereto shall bear the facsimile signatures of the chairman or vice-chairman of
515 the Board. When any officer whose signature appears on the bonds or coupons ceases to be such
516 officer before the delivery of such bonds, such signature shall nevertheless be valid and
517 sufficient for all purposes the same as if such officer had remained in office until such delivery.
518 All revenue bonds issued under the provisions of this ~~article chapter~~ shall have and are hereby
519 declared to have, as between successive holders, all the qualities and incidents of negotiable
520 instruments under the negotiable instruments law of the Commonwealth. Such bonds and the
521 income thereof shall be exempt from all taxation within the Commonwealth. The bonds may be
522 issued in coupon or in registered form, or both, as the Board may determine, and provision may
523 be made for the registration of any coupon bond as to principal alone and also as to both
524 principal and interest and for the reconversion of any bonds registered as to both principal and
525 interest into coupon bonds. Prior to the preparation of definite bonds, the Board, under like
526 restrictions, may issue temporary bonds with or without coupons, exchangeable for definitive
527 bonds upon the issuance of the latter. The Board may also provide for the replacement of any
528 bond ~~which that~~ is mutilated, destroyed, or lost.

529 **Drafting note: Technical changes.**

530 § ~~33.1-279~~ 33.2-XXX. No other prerequisites to issue of bonds.

531 Such revenue bonds may be issued without any other proceedings or the happening of
532 any other conditions or things than those proceedings, conditions, and things ~~which that~~ are
533 specified and required by this ~~article chapter~~.

534 **Drafting note: Technical changes.**

535 § ~~33.1-279.1~~ 33.2-XXX. Limitations and approvals for certain revenue bonds ~~secured by~~
536 ~~Transportation Trust Fund revenues under payment agreement and payable first from such~~
537 ~~revenues received pursuant to contracts with a transportation district.~~

538 No bonds payable from the Transportation Trust Fund revenues under a payment
539 agreement between the Board and the Treasury Board and payable first from revenues of that
540 Fund received pursuant to contracts with a primary highway transportation improvement district
541 or a transportation service district shall be issued unless specifically included in a bill or
542 resolution passed by the General Assembly. The Treasury Board is ~~hereby~~ designated the sales
543 and paying agent of the Board with respect to such bonds.

544 **Drafting note: Technical changes.**

545 § ~~33.1-280~~ 33.2-XXX. Sale of bonds; bonds as legal investments.

546 The Board may sell such bonds in such manner and for such price as it may determine to
547 be for the best interests of the Commonwealth, but no such sale shall be made at a price so low
548 as to require the payment of interest on the money received therefor at more than the maximum
549 ~~per centum per annum~~ annual percentage rate approved by the Commonwealth Treasury Board
550 with respect to such obligations in accordance with § 2.2-2416.

551 All bonds ~~heretofore or hereafter~~ issued pursuant to the authority of this ~~article~~ chapter
552 are hereby made securities in which all public officers and bodies of ~~this~~ the Commonwealth
553 and all political subdivisions thereof; all insurance companies and associations, all national
554 banks and trust companies, and all savings institutions, including savings and loan associations,
555 in the Commonwealth; and all executors, administrators, trustees, and other fiduciaries, both
556 individual or corporate, may properly and legally invest funds within their control.

557 **Drafting note: Technical changes.**

558 § ~~33.1-281~~ 33.2-XXX. Use of proceeds of sale of bonds.

559 The proceeds of such bonds shall be used solely for the payment of the cost of the
560 project ~~or projects~~ for which they are issued and shall be disbursed by the Board under such
561 restrictions, if any, as the Board may provide. If the proceeds of the bonds of any issue, by error
562 of estimates or otherwise, shall be less than the cost of the project ~~or projects~~ on account of
563 which such bonds are issued, additional bonds may in like manner be issued to provide the
564 amount of such deficit and unless otherwise provided in the resolution authorizing the issuance

565 of the bonds or in the trust indenture ~~hereinafter mentioned~~ pursuant to § 33.2-xxx [existing §
566 33.1-284] shall be deemed to be of the same issue and shall be entitled to payment from the
567 same fund without preference or priority of the bonds first issued for the same project ~~or~~
568 ~~projects~~. If the proceeds of bonds issued for any project ~~or projects shall exceed~~ exceeds the cost
569 thereof, the surplus shall be paid into the fund ~~hereinafter~~ provided in this chapter for the
570 payment of principal and interest of such bonds.

571 **Drafting note: Technical changes.**

572 § ~~33.1-282~~ 33.2-XXX. Financing two or more projects together.

573 The Board may, in its discretion, couple or unite into one unit for financing purposes any
574 two or more ~~of~~ such projects, whether acquired by purchase or condemnation or constructed,
575 and revenue bonds of a single issue may be issued for the purpose of paying the cost of any one
576 or more projects, unless otherwise restricted by statute.

577 **Drafting note: Technical change.**

578 § ~~33.1-283~~ 33.2-XXX. All moneys to be trust funds.

579 All moneys received pursuant to the authority of this ~~article chapter~~, whether as proceeds
580 from the sale of revenue bonds, as grants or other contributions, or as tolls and revenues, shall
581 be held and applied solely as provided in this ~~article chapter~~. The Board shall, in the resolution
582 authorizing the issuance of bonds or in the trust indenture, provide for the payment of the
583 proceeds of the sale of the bonds and the tolls and revenues to be received into the state treasury
584 and carried on the books of the Comptroller in a special account and may provide for the turning
585 over, transfer, or paying over of such funds from the state treasury to any officer, agency, bank,
586 or trust company, who shall act as trustee of such funds, and hold and apply the same to the
587 purposes ~~hereof of this chapter~~, subject to such regulations as this ~~article chapter~~ and such
588 resolution or trust indenture may provide.

589 Disbursements and payments of moneys so paid into the state treasury shall be made by
590 the State Treasurer upon warrants of the State Comptroller ~~which that~~ he shall issue upon
591 vouchers signed by such person or persons as shall be designated by the Board for such purpose.

592 **Drafting note: Technical changes.**

593 § ~~33.1-284~~ 33.2-XXX. Trust indenture.

594 In the discretion of the Board, each or any issue of revenue bonds may be secured by a
595 trust indenture by and between the Board and a corporate trustee, which may be any trust
596 company or bank having trust powers within or ~~outside of~~ without the Commonwealth. Such
597 trust indenture may pledge tolls and revenues to be received, but no such trust indenture shall
598 convey or mortgage any project or any part thereof. Either the resolution providing for the
599 issuance of revenue bonds or such trust indenture may contain such provisions for protecting
600 and enforcing the rights and remedies of the bondholders as may be reasonable and proper and
601 not in violation of law, including covenants setting forth the duties of the Board in relation to
602 the acquisition, construction, improvement, maintenance, operation, repair, and insurance of the
603 projects and the custody, safeguarding, and application of all moneys. Such resolution or trust
604 indenture may also provide that the project ~~or projects~~ shall be acquired, or acquired and
605 improved, or constructed, and paid for under the supervision and approval of consulting
606 engineers employed or designated by the Board and satisfactory to the original purchasers of the
607 bonds issued therefor and may also require that the security given by contractors and by any
608 depository of the proceeds of the bonds or revenues of the project ~~or projects~~ or other moneys
609 pertaining thereto be satisfactory to such purchasers. Any bank or trust company within or
610 ~~outside of~~ without the Commonwealth may act as such depository and furnish such
611 indemnifying bonds or pledge such securities as may be required by the Board. Such indenture
612 may set forth the rights and remedies of the bondholders and of the trustee and may restrict the
613 individual right of action of bondholders as is customary in trust indentures securing bonds and
614 debentures of corporations. In addition to the foregoing, such trust indenture may contain such
615 other provisions as the Board may deem reasonable and proper for the security of the
616 bondholders. Except as otherwise provided in this ~~article otherwise provided~~ chapter, the Board
617 may provide, by resolution or by such trust indenture, that after the payment of the proceeds of
618 the sale of the bonds and the revenues of the project ~~or projects~~ into the state treasury the Board

619 will immediately transfer or pay same over to such officer, board, or depository as it may
620 determine for the custody thereof and for the method of disbursement thereof, with such
621 safeguards and restrictions as it may determine. All expenses incurred in carrying out such trust
622 indenture may be treated as a part of the cost of maintenance, operation, and repairs of the
623 project ~~or projects~~ affected by such indenture.

624 **Drafting note: Technical changes.**

625 § ~~33.1-285~~ 33.2-XXX. Revenues.

626 The Board shall fix and revise ~~from time to time~~ as may be necessary tolls for the use of
627 each project ~~or projects on account of for~~ which bonds are issued or proposed to be issued under
628 the provisions of this ~~article~~ chapter and shall charge and collect the same and may contract with
629 any person, partnership, association, or corporation desiring the use of such project ~~or projects~~,
630 approaches, and appurtenances, and any part thereof, for placing thereon water, gas, or oil
631 pipelines, or telephone, telegraph, electric light, or power lines, or for any other purpose, and
632 may fix the terms, conditions, and rates and charges for such use. Such tolls shall be so fixed
633 and adjusted, in respect of the aggregate of tolls from the project ~~or projects~~ on account of
634 which a single issue of bonds is issued under this ~~article~~ chapter, as to provide a fund sufficient
635 with other revenues of such project ~~or projects~~, if any, to pay ~~(a)~~ (i) the cost of maintaining,
636 repairing, and operating such project ~~or projects~~ unless such cost shall be otherwise provided for
637 and ~~(b)~~ (ii) such bonds and the interest thereon as the same shall become due. Such tolls shall
638 not be subject to supervision or regulation by any other state commission, board, bureau, or
639 agency. Except for those persons exempted by § ~~33.1-252~~ 33.2-XXX, it shall be unlawful for
640 the Department ~~of Transportation~~ or any Department employee ~~thereof~~ to give or permit free
641 passage over any project set forth in subdivision ~~(2)~~ XXX of § ~~33.1-268~~ which 33.2-XXX that
642 has been secured through the issuance of revenue bonds and which bonds are payable from the
643 revenues of such project. Every vehicle and person shall pay the same toll as others similarly
644 situated. Except as provided in § ~~33.1-252~~ 33.2-XXX, the provisions ~~hereof in this section~~ shall
645 apply with full force and effect to vehicles and employees of the state government, and

646 governments of counties, cities, and towns or other political subdivisions, and to vehicles and
647 persons of all other categories and descriptions, public, private, eleemosynary, or otherwise.

648 **Drafting note: Technical changes.**

649 § ~~33.1-285.1~~ 33.2-XXX. Reserve funds and appropriations.

650 A. In connection with the Commonwealth of Virginia Transportation Contract Revenue
651 Bonds, the Board may create and establish one or more special funds (~~herein referred to as~~
652 ~~"reserve funds"~~); and shall pay into each such reserve fund from bond proceeds and any moneys
653 appropriated and made available by the Commonwealth for the purpose of such fund and from
654 any other moneys ~~which that~~ may be made available to the Board for the purpose of such fund
655 from any other source or sources. All moneys held in any reserve fund shall be used, as
656 required, solely for the payment of the principal and interest of Commonwealth of Virginia
657 Transportation Contract Revenue Bonds.

658 B. In order to further ensure maintenance of the ~~foregoing~~ reserve fund, the
659 Commissioner of Highways shall annually, on or before December 1, make and deliver to the
660 Governor and Director of the Department of Planning and Budget his certificate stating the sum,
661 if any, required to restore each such reserve fund to the minimum reserve fund requirement for
662 such fund as may be established by the Board. Within five days after the beginning of each
663 regular session of the General Assembly, the Governor shall submit to the presiding officer of
664 each house printed copies of a budget including the sum, if any, required to restore each such
665 reserve fund to the minimum reserve fund requirement for such fund. All sums appropriated by
666 the General Assembly for such restoration and paid shall be deposited by the Board in the
667 applicable reserve fund and shall be deducted from amounts otherwise allocable pursuant to the
668 highway allocation formula as provided by law, to the highway construction district in which
669 the project ~~or projects are~~ is located or to the county or counties in which the project ~~or projects~~
670 ~~financed are~~ is located.

671 **Drafting note: Technical changes.**

672 § ~~33.1-286~~ 33.2-XXX. Sinking fund.

673 The tolls and all other revenues derived from the project~~-or projects~~ for which a single
674 issue of bonds is issued, except such part thereof as may be required to pay the cost of
675 maintaining, repairing, and operating such project~~-or projects~~ and to provide such reserves
676 therefor as may be provided for in the resolution authorizing the issuance of such bonds or in the
677 trust indenture, shall be set aside at such regular intervals as may be provided in such resolution
678 or such trust indenture, in a sinking fund~~-which that~~ is hereby pledged to, and charged with the
679 payment of:~~(1) (i)~~ the interest upon such bonds as such interest shall fall due,~~(2) (ii)~~ the
680 principal of the bonds as the same shall fall due, ~~(3) (iii)~~ the necessary charges of paying agents
681 for paying principal and interest, and~~(4) (iv)~~ any premium upon bonds retired by call or
682 purchase as ~~herein~~ provided in this section.

683 The use and disposition of such sinking fund shall be subject to such regulations as may
684 be provided in the resolution authorizing the issuance of the bonds or in the trust indenture but,
685 except as may otherwise be provided in such resolution or trust indenture, such sinking fund
686 shall be a fund for all such bonds without distinction or priority of one over another. Subject to
687 the provisions of the resolution authorizing the issuance of the bonds or of the trust indenture,
688 any moneys in such sinking fund in excess of an amount equal to one year's interest on all bonds
689 then outstanding may be applied to the purchase or redemption of bonds. All bonds so
690 purchased or redeemed shall forthwith be cancelled and shall not again be issued.

691 **Drafting note: Technical changes.**

692 § ~~33.1-287~~ 33.2-XXX. Cessation of tolls.

693 When the particular revenue bonds issued for any project~~-or projects~~ and the interest
694 thereon have been paid, or a sufficient amount has been provided for their payment and
695 continues to be held for that purpose, the Board shall cease to charge tolls for the use of such
696 project~~-or projects~~ and thereafter such project~~-or projects~~ shall be free; however, the Board may
697 thereafter charge tolls for the use of any such project when tolls are required for maintaining,
698 repairing, operating, improving, and reconstructing such project~~;:~~; when such tolls have been or
699 are pledged by the Board to the payment of revenue bonds issued under the provisions of ~~the~~

700 ~~article this chapter~~ for another project ~~or projects~~ on approval of the General Assembly; or when
701 such tolls are designated by the Board to be deposited into the Transportation Trust Fund. ~~But~~
702 ~~However,~~ any such pledge of tolls of a project to the payment of bonds issued for another
703 project shall not be ~~effectual~~ effective until the principal and interest of the bonds issued for the
704 first mentioned project shall have been paid or provision made for their payment.

705 The ~~foregoing~~ provisions of this section shall also apply to tolls on projects constructed
706 pursuant to (i) ~~the acts incorporated by reference by § 33.1-253 (Chesapeake Bay Bridge and~~
707 ~~Tunnel District), Chapter XXX (§ 33.2-XXX et seq.)~~ and (ii) ~~to~~ the Richmond Metropolitan
708 Authority, established in Chapter ~~70 XXX~~ (§ ~~15.2-7000~~ 33.2-XXX et seq.) ~~of Title 15.2,~~
709 provided their governing bodies have acted as set forth in subdivision ~~4 XXX~~ of § ~~33.1-23.03:1~~
710 33.2-XXX.

711 **Drafting note: Technical changes are made and the cross-reference to the existing**
712 **§ 33.1-253 where the Chesapeake Bay Bridge and Tunnel District is incorporated by**
713 **reference is updated with the proposed chapter setting out the establishment of the**
714 **District.**

715 § ~~33.1-288~~ 33.2-XXX. Use of certain funds by Board.

716 The Board may, in its discretion, use any part of funds available for the construction of
717 state highways; in any highway construction district in which any project authorized for toll
718 revenue bond financing by the ~~Commonwealth Transportation~~ Board as described in § ~~33.1-268~~
719 33.2-XXX or by the Richmond Metropolitan Authority as described by Chapter ~~70 XXX~~ (§
720 ~~15.2-7000~~ 33.2-XXX et seq.) ~~of Title 15.2~~ is wholly or partly located; to aid in the payment of
721 the cost of such projects and for the payment, purchase, or redemption of revenue bonds issued
722 in connection with any such project, or in connection with any such project and any one or more
723 other projects. The Board may also, in its discretion, use any part of funds available for the
724 maintenance of state highways, in any highway construction district in which any such project is
725 wholly or partly located, to provide for the operation, maintenance, and repair of any such
726 project and for the payment of interest on revenue bonds issued in connection with any such

727 project, or in connection with any such project and any one or more other projects; ~~provided~~
728 ~~further.~~ In addition, the ~~Commonwealth Transportation~~ Board may, in its discretion, use funds
729 under the terms of this section for the emergency operation, maintenance, and repair of the
730 project of the Chesapeake Bay Bridge and Tunnel Commission as described by § ~~33.1-253~~ 33.2-
731 XXX in the event of damage to the bridge under a repayment agreement approved by the bond
732 trustee; and may also pay to the Chesapeake Bay Bridge and Tunnel Commission, for aid in the
733 maintenance of the project, the same amounts authorized by § ~~33.1-41.1~~ 33.2-XXX for
734 payments for maintenance to certain ~~incorporated~~ towns and cities.

735 ~~Provided, however, that in the event~~ If the Board uses any part of the fund available to
736 itself for the construction of ~~roads~~ highways in the ~~State Highway System~~ primary state
737 highway system without reference to highway construction districts, commonly called the "gap
738 fund," for any purpose permitted by this section, it shall not expend in excess of ~~three-eighths~~
739 three-eighths of the amount of such fund, including other amounts of such fund that may be
740 expended in the three districts in which such projects are located; ~~and,~~ provided, ~~further,~~ that in
741 no case shall any of the funds of any highway construction district other than those in which the
742 projects are located be used for the purposes of this ~~article~~ chapter.

743 **Drafting note: Technical changes.**

744 § ~~33.1-289~~ 33.2-XXX. Contributions.

745 The Board, in addition to the revenues ~~which that~~ may be received from the sale of
746 revenue bonds and from the collection of tolls and other revenues derived under the provisions
747 of this ~~article~~ chapter, ~~shall have authority to~~ may receive and accept from any federal agency or
748 other public or private body contributions of either money or property or other things of value,
749 to be held, used, and applied for the purposes provided in this ~~article~~ provided chapter.

750 **Drafting note: Technical changes.**

751 § ~~33.1-290~~ 33.2-XXX. Remedies of bondholders and trustee.

752 Any holder of revenue bonds issued under the provisions of this ~~article~~ chapter or any of
753 the coupons attached thereto and the trustee under the trust indenture, if any, except to the extent

754 the rights herein given may be restricted by resolution passed before the issuance of the bonds
755 or by the trust indenture, may, either at law or in equity, by suit, action, mandamus, or other
756 proceedings protect and enforce any and all rights under the laws of the United States or of ~~this~~
757 ~~the~~ Commonwealth or granted hereunder or under such resolution or trust indenture and may
758 enforce and compel performance of all duties required by this ~~article chapter~~, or by such
759 resolution or trust indenture, to be performed by the Commonwealth or by the Board, or any
760 officer thereof, including the fixing, charging, and collecting of tolls for the use of such project
761 ~~or projects~~.

762 **Drafting note: Technical changes.**

763 § ~~33.1-291~~ 33.2-XXX. Competing bridges, ferries, and tunnels.

764 No bridge or tunnel other than those specified in § ~~33.1-268~~ 33.2-XXX for the use of the
765 traveling public shall ~~hereafter~~ be constructed and operated by the Commonwealth or by any
766 county, municipal corporation, or political subdivision of the Commonwealth, or by any agency
767 or instrumentality, copartnership, association, or corporation, within ~~ten~~ 10 miles of any
768 terminus of any project acquired or constructed under the provisions of this ~~article chapter~~, and
769 no franchise shall ~~hereafter~~ be granted for the operation of a ferry within ~~ten~~ 10 miles of any
770 projects for the acquisition or construction of which revenue bonds ~~shall~~ have been authorized
771 under this ~~article chapter~~, except under a written permit granted by the Board, which is hereby
772 exclusively authorized to grant such permits under the terms and conditions ~~hereof of this~~
773 ~~chapter~~. No such permit shall be granted by the Board until it ~~shall ascertain~~ ascertains by an
774 investigation, including a hearing upon such notice and under such rules as the Board may
775 prescribe, that there is an urgent public need for the operation of such bridge, tunnel, or ferry
776 and that its operation will not affect the revenues of any such project of the Commonwealth so
777 as to impair the security of any revenue bonds issued for the acquisition or construction of such
778 project.

779 The distance of ~~ten~~ 10 miles ~~hereinabove mentioned specified~~ in this section shall be
780 measured in a straight line between the nearest points of such projects. However, nothing in this

781 ~~article chapter~~ shall apply to an existing ferry route, temporarily discontinued, if ~~said the~~ ferry
782 was established prior to 1940.

783 **Drafting note: Technical changes. QUESTION FOR VDOT: Do we really need the**
784 **last sentence of this section?**

785 § ~~33.1-292~~ 33.2-XXX. Incidental powers of the Board.

786 The Board may make and enter into all contracts or agreements necessary or incidental
787 to the execution of its powers under this ~~article chapter~~ and may employ engineering,
788 architectural, and construction experts and inspectors, brokers, and such other employees as may
789 be deemed necessary, who shall be paid such compensation as may be provided in accordance
790 with law. All such compensation and all expenses incurred in carrying out the provisions of this
791 ~~article chapter~~ shall be paid solely from funds provided under the authority of this ~~article~~
792 ~~chapter~~, and no liability or obligation shall be incurred ~~hereunder pursuant to this chapter~~
793 beyond the extent to which money ~~shall have has~~ been provided under the authority of this
794 ~~article chapter~~. The Board may exercise any powers ~~which that~~ are necessary or convenient for
795 the execution of its powers under this ~~article chapter~~.

796 The Board shall maintain and keep in good condition and repair, or cause to be
797 maintained and kept in good condition and repair, the projects authorized under this ~~article~~
798 ~~chapter~~, when acquired or constructed and opened to traffic, including any project or part
799 thereof that may include portions of existing streets or roads within a county, municipality, or
800 other political subdivision.

801 The Board is authorized and empowered to establish ~~rules and~~ regulations for the use of
802 any one or more of the projects defined in § ~~33.1-268~~ 33.2-XXX, as amended, including
803 reasonable ~~rules and~~ regulations relating to ~~(a) (i)~~ maximum and minimum speed limits
804 applicable to motor vehicles using such project, any other provision of law to the contrary
805 notwithstanding; ~~(b) (ii)~~ the types, kinds, and sizes of vehicles ~~which that~~ may use such projects;
806 ~~(c) (iii)~~ the nature, size, type of materials, or substances ~~which that~~ shall not be transported over
807 such project; and ~~(d) (iv)~~ such other matters as may be necessary or expedient in the interest of

808 public safety with respect to the use of such project; ~~provided, however,~~ that as to project ~~(j)~~
809 ~~XXX~~ authorized under the terms of § ~~33.1-268~~ 33.2-XXX, the provisions of ~~(a), (b), (c) clauses~~
810 ~~(i), (ii), (iii), and (d) of this paragraph (iv)~~ shall not apply to existing streets within a
811 municipality and embraced within ~~said such~~ project, except as may be otherwise agreed upon by
812 the Board and the municipality.

813 The projects acquired or constructed under this ~~article chapter~~ may be policed in whole
814 or in part by State Police officers ~~of the Department of State Police~~ even though all or some
815 portions of any such projects lie within the corporate limits of a municipality or other political
816 subdivision. Such officers shall be under the exclusive control and direction of the
817 Superintendent of State Police and shall be responsible for the preservation of public peace,
818 prevention of crime, apprehension of criminals, protection of the rights of persons and property,
819 and enforcement of the laws and regulations of the Commonwealth, ~~and rules and regulations~~
820 ~~enacted pursuant thereto~~, within the limits of any such projects. All other police officers of the
821 Commonwealth and of each ~~county, city, town~~ locality or other political subdivision ~~of the~~
822 ~~Commonwealth~~ through which any project, or portion thereof, extends shall have the same
823 powers and jurisdiction within the limits of such projects as they have beyond such limits and
824 shall have access to the projects at any time for the purpose of exercising such powers and
825 jurisdiction.

826 The Board is authorized and empowered to employ and appoint "project guards" for the
827 purpose of protecting the projects and to enforce the ~~rules and~~ regulations of the Board, except
828 those paralleling state law, established for the use of such projects. Such guards may issue
829 summons to appear or arrest on view without warrant and conduct before the nearest officer
830 authorized by law to admit to bail; any persons violating, within or upon the projects, any such
831 rule or regulation. The provisions of §§ 46.2-936 and 46.2-940 shall apply mutatis mutandis to
832 the issuance of summons or arrests without warrants pursuant to this section.

833 The violation of any ~~rule or~~ regulation adopted by the Board pursuant to the authority
834 hereby granted shall be punishable as follows: If such violation would have been a violation of

835 law if committed on any public ~~road,~~ street, or highway in the county, city, or town in which
836 such violation occurred, it shall be punishable in the same manner as if it had been committed
837 on such public road, street, or highway; otherwise it shall be punishable as a misdemeanor.

838 The powers and duties of the Board ~~hereinabove~~ enumerated in this ~~article chapter~~ shall
839 not be construed as a limitation of the general powers or duties of the Board. The Board, in
840 addition to the powers and duties enumerated in this ~~article chapter~~, shall do and perform any
841 and all things and acts necessary in the construction or acquisition, maintenance, and operation
842 of any project to be constructed or acquired under the provisions of this ~~article chapter~~, to the
843 end that such project ~~or projects~~ may become and be operated free of tolls as early as possible
844 and practicable, subject only to the express limitations of this ~~article chapter~~ and the limitations
845 of other laws and constitutional provisions applicable thereto.

846 **Drafting note: Technical changes, including use of "regulations" rather than "rules**
847 **and regulations" per recommendation of the Code Commission.**

848 § ~~33.1-293~~ 33.2-XXX. Revenue refunding bonds and revenue bonds for combined
849 purposes.

850 Notwithstanding any ~~of the other provisions~~ provision of this ~~article chapter~~ and without
851 regard to any other restrictions or limitations contained in this ~~article chapter~~, the Board is
852 ~~hereby~~ authorized to provide by resolution ~~(a) (i)~~ for the issuance of revenue refunding bonds of
853 the Commonwealth for the purpose of refunding any revenue bonds issued under the provisions
854 of this ~~article chapter~~ and then outstanding, including interest to the earliest call date of such
855 outstanding bonds and premiums, if any, payable on such call date, and ~~(b) (ii)~~ for the issuance
856 of a single issue of revenue bonds of the Commonwealth for the combined purpose of providing
857 funds ~~(i) (a)~~ to pay the cost of either or both of the projects described in ~~paragraphs (b)~~
858 subdivisions 2 and ~~(j) of subdivision (2) of 5 of the definition of "project" in § 33.1-268 of this~~
859 article 33.2-XXX in the event the Board has decided or shall decide to construct either or both
860 of ~~said such~~ projects under authority ~~heretofore granted; in this chapter~~ and ~~(ii) (b)~~ to refund
861 revenue bonds of the Commonwealth ~~theretofore~~ issued under the provisions of this ~~article~~

862 chapter and then outstanding, including interest to the earliest call date of such outstanding
863 bonds and premiums, if any, payable on such call date. For the purposes of this section, ~~the~~
864 ~~word "project," shall,~~ in relation to the project described in ~~said paragraph (j) subdivision 5 of~~
865 ~~the definition of "project" in § 33.2-XXX,~~ include includes approach highways thereto and bus
866 facilities for the transportation of passengers through or over ~~said the~~ project if the Board ~~shall~~
867 deem deems it advisable to construct such approach highways or acquire such bus facilities;
868 and ~~the term "cost of the project," shall,~~ in relation to the projects described in ~~said paragraphs~~
869 ~~(b) and (j) subdivisions 2 and 5 of the definition of "project" in § 33.2-XXX,~~ include includes an
870 amount sufficient to reimburse the Board for expenditures or advances ~~therefore~~ made by the
871 Board on account of the cost of either or both of ~~said the~~ projects, and ~~shall,~~ in relation to the
872 project described in ~~said paragraph (j) subdivision 5 of the definition of "project" in § 33.2-~~
873 ~~XXX,~~ include includes provision of a sum, deemed by the Board to be sufficient for the
874 purpose, to be utilized by the Board for the payment of employment severance benefits to
875 employees of the Board or the Department rendering services in connection with the projects
876 mentioned specified in ~~paragraphs (g) and (i) of subdivision (2) of said subdivisions XXX and~~
877 ~~XXX of the definition of "project" in § 33.1-268 33.2-XXX~~ and ~~shall include~~ includes the cost
878 of constructing approach highways and of providing bus facilities if the Board ~~shall deem deems~~
879 it expedient to construct such approach highways or acquire such facilities as a part of the
880 project described in ~~said paragraph (j) subdivision 5 of the definition of "project" in § 33.2-~~
881 ~~XXX~~. In the event bonds ~~shall be~~ are issued for the combined purpose set forth in clause ~~(b) of~~
882 ~~this section (ii)~~, such amount of the proceeds of such bonds as may be required, together with
883 other funds available for such purpose, for the redemption of the outstanding bonds to be
884 refunded shall be deposited by the Board in trust with the trustee under the trust indenture
885 securing such outstanding bonds for the sole and exclusive purpose of paying and redeeming
886 such bonds, and the balance of such proceeds shall be used solely for the payment of the cost of
887 the project ~~or projects~~ to be constructed.

888 The issuance of such bonds, the maturities and other details thereof, the rights of the
889 holders thereof, and the duties of the Commonwealth and of the Board in respect to the same
890 shall be governed by the ~~foregoing~~ provisions of this ~~article insofar as~~ chapter ~~as the same may be~~
891 applicable.

892 **Drafting note: Technical changes. This section was amended by HB 2116 and SB**
893 **1209 during the 2013 Session. These bills are identical and the changes adopted in Acts of**
894 **Assembly Chapters 646 and 585 are incorporated by adding "or the Department" after**
895 **the "employees of the Board."**

896 ~~§ 33.1-294 33.2-XXX. Article Chapter~~ provides alternative method.

897 This ~~article chapter~~ shall be deemed to provide an additional and alternative method for
898 ~~the doing of the things authorized hereby~~ actions authorized by this chapter and shall be
899 regarded as supplemental and additional to powers conferred by other laws and shall not be
900 regarded as in derogation of any existing powers ~~now existing~~.

901 **Drafting note: Technical changes are made. Recommended for repeal.**

902 ~~§ 33.1-295 33.2-XXX. Article Chapter~~ liberally construed.

903 This ~~article chapter~~, being necessary for the welfare of the Commonwealth and its
904 inhabitants, shall be liberally construed to effect the purposes hereof.

905 **Drafting note: Technical change.**

906 ~~§§ 33.1-296. through 33.1-317.~~

907 **Drafting note: Repealed by Acts 2011, c. 600.**

908 ~~§ 33.1-318.~~

909 **Drafting note: Repealed by Acts 2011, c. 600.**

910 ~~§ 33.1-319.~~

911 **Drafting note: Repealed by Acts 2006, c. 186, cl. 2.**

912 ~~§ 33.1-320.~~

913 **Drafting note: Repealed by Acts 2009, c. 471, cl. 3.**

914 ~~§ 33.1-320.1.~~

915

Drafting note: Repealed by Acts 1996, cc. 951 and 1018.

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

CHAPTER ~~13~~ __

LOCAL TRANSPORTATION DISTRICTS.

Drafting note: Existing Chapter 13, Local Transportation Districts, of Title 33.1 is retained as Chapter __ of proposed Title 33.2 and placed within Subtitle IV on Local and Regional Transportation.

§ ~~33.1-409~~ 33.2-XXX. Definitions.

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

"Commission" means the governing body of a local transportation district created pursuant to this chapter.

"Cost" means all or any part of the cost of the following:

1. Acquisition, construction, reconstruction, alteration, landscaping, utilities, parking, conservation, remodeling, equipping, or enlarging of transportation improvements or any portion thereof;
2. Acquisition of land, rights-of-way, property rights, easements, and interests for construction, alteration, or expansion of transportation improvements;
3. Demolishing or relocating any structure on land so acquired, including the cost of acquiring any lands to which such structure may be relocated;
4. All labor, materials, machinery, and equipment necessary or incidental to the construction or expansion of a transportation improvement;
5. Financing charges, insurance, interest, and reserves for interest on all bonds prior to and during construction and, if deemed advisable by the commission, for a reasonable period after completion of such construction;
6. Reserves for principal and interest;
7. Reserves for extensions, enlargements, additions, replacements, renovations, and improvements;
8. Provisions for working capital;

27 | 9. Engineering and architectural expenses and services, including ~~but not limited to~~
28 surveys, borings, plans, and specifications;

29 10. Subsequent addition to or expansion of any project and the cost of determining the
30 feasibility or practicability of such construction;

31 11. Financing construction of, addition to, or expansion of transportation improvements
32 and placing them in operation; and

33 12. Expenses incurred in connection with the creation of the district, not to exceed
34 \$150,000.

35 "District" means any district created pursuant to this chapter.

36 "District advisory board" or "advisory board" means the board appointed pursuant to this
37 chapter.

38 "Federal agency" means the United States of America or any department, bureau,
39 agency, or instrumentality thereof.

40 "Locality" means any county or city.

41 | "Owner" or "landowner" means the person ~~which that~~ has the usufruct, control, or
42 occupation of the taxable real property as determined, pursuant to § 58.1-3281, by the
43 commissioner of the revenue of the locality in which the subject real property is located.

44 "Revenue" means any or all fees, tolls, rents, receipts, assessments, taxes, money, and
45 income derived by the district, including any cash contribution or payments made to the district
46 by the Commonwealth, any political subdivision thereof, or any other source.

47 "Transportation improvements" means any real or personal property acquired,
48 constructed, improved, or used in constructing or improving any (i) public mass transit system
49 or (ii) highway, or portion or interchange thereof, including parking facilities located within a
50 | district created pursuant to this chapter. Such improvements ~~shall include, without limitation,~~
51 public mass transit systems, public highways, and all buildings, structures, approaches, and
52 facilities thereof and appurtenances thereto, rights-of-way, bridges, tunnels, stations, terminals,
53 and all related equipment and fixtures.

54 **Drafting note: Technical changes.**

55 § ~~33.1-410~~ 33.2-XXX. Creation of district.

56 A. A district may be created in a single locality or in two or more contiguous localities.
57 If created in a single locality, a district shall be created by a resolution of the local governing
58 body. If created in two or more ~~adjoining~~ contiguous localities, a district shall be created by the
59 resolutions of each of the local governing bodies ~~of the localities~~. Any such resolution shall be
60 considered only upon the petition, to each local governing body of the locality in which the
61 proposed district is to be located, of the owners of at least ~~fifty-one~~ 51 percent of either the land
62 area or the assessed value of land; in each locality, ~~which that~~ (i) is within the boundaries of the
63 proposed district and (ii) has been zoned for commercial or industrial use or is used for such
64 purposes. Any proposed district within a county or counties may include any land within a town
65 or towns within the boundaries of such county or counties.

66 B. The petition to the local governing body or bodies shall:

- 67 1. Set forth the name and describe the boundaries of the proposed district;
68 2. Describe the transportation improvements proposed within the district;
69 3. Propose a plan for providing such transportation improvements within the district and
70 describe specific terms and conditions with respect to all commercial and industrial zoning
71 classifications and uses, densities, and criteria related thereto which the petitioners request for
72 the proposed district;
73 4. Describe the benefits ~~which that~~ can be expected from the provision of such
74 transportation improvements within the district; and
75 5. Request the local governing body or bodies to establish the proposed district for the
76 purposes set forth in the petition.

77 C. Upon the filing of such a petition, each local governing body shall fix a day for a
78 hearing on the question of whether the proposed district shall be created. The hearing shall
79 consider whether the residents and owners of real property within the proposed district would
80 benefit from the establishment of the proposed district. All interested persons who either reside

81 in or own taxable real property within the proposed district shall have the right to appear and
82 show cause why any property or properties should not be included in the proposed district. If
83 real property within a town is included in the proposed district, the governing body shall deliver
84 a copy of the petition and notice of the public hearing to the town council at least ~~thirty~~ 30 days
85 prior to the public hearing, and the town council may by resolution determine if it wishes such
86 property located within the town to be included within the proposed district and shall deliver a
87 copy of any such resolution to the local governing body at the public hearing required by this
88 section. Such resolution shall be binding upon the local governing body with respect to the
89 inclusion or exclusion of such properties within the proposed district. The petition shall comply
90 with the provisions of this section with respect to minimum acreage or assessed valuation.
91 Notice of the hearing shall be given by publication once a week for three consecutive weeks in a
92 newspaper of general circulation within the locality. At least ~~ten~~ 10 days shall intervene between
93 the third publication and the date set for the hearing.

94 D. If each local governing body finds the creation of the proposed district would be in
95 furtherance of the locality's comprehensive plan for the development of the area; in the best
96 interests of the residents and owners of real property within the proposed district; and in
97 furtherance of the public health, safety, and welfare, then each local governing body may pass a
98 resolution, which shall be reasonably consistent with the petition, creating the district and
99 providing for the appointment of an advisory board in accordance with this chapter. The
100 resolution shall provide a description with specific terms and conditions of all commercial and
101 industrial zoning classifications ~~which that~~ shall be in force in the district upon its creation,
102 together with any related criteria and a term of years, not to exceed ~~twenty~~ 20 years, as to which
103 each ~~such~~ zoning classification and each related criterion set forth therein shall remain in force
104 within the district without elimination, reduction, or restriction, except (i) upon the written
105 request or approval of the owner of any property affected by a change or (ii) as specifically
106 required to comply with state or federal law.

107 Each resolution creating a district shall also provide either that the district shall expire
108 ~~either~~ (i) ~~thirty five~~ 35 years from the date upon which the resolution is passed or (ii) when the
109 district is abolished in accordance with ~~this chapter § 33.2-xxx~~ [§ 33.1-424]. After the public
110 hearing, each local governing body shall deliver a certified copy of its proposed resolution
111 creating the district to the petitioning landowners or their attorneys-in-fact. Any petitioning
112 landowner may then withdraw his signature on the petition, in writing, at any time prior to the
113 vote of the local governing body. In the case where any signatures on the petition are
114 withdrawn, the local governing body may pass the proposed resolution only upon certification
115 that the petition continues to meet the provisions of this section. After all local governing bodies
116 have adopted resolutions creating the district, the district shall be established and the name of
117 the district shall be "The Transportation Improvement District."

118 **Drafting note: Technical changes.**

119 ~~§ 33.1-411~~ § 33.2-XXX. Commission to exercise powers of the district.

120 The powers of a district created pursuant to this chapter shall be exercised by a
121 commission. The commission shall consist of four members of the governing body of each
122 locality in which the district is located, appointed by their respective local governing bodies. In
123 addition to the ~~foregoing members from each locality~~, the Chairman of the Commonwealth
124 Transportation Board or his designee shall be a member of the commission of any district
125 created pursuant to this chapter.

126 The ~~members of the~~ commission shall elect ~~one of their number~~ a chairman ~~of the~~
127 ~~commission from its membership~~. The chairman may be the chairman or presiding officer of a
128 local governing body. In addition, the ~~members of the~~ commission, with the advice of the
129 district advisory board, shall elect a secretary and a treasurer, who may be members or
130 employees of any local governing body or other governmental body. The offices of secretary
131 and treasurer may be combined. A majority of the commission members shall constitute a
132 quorum, and a majority vote shall be necessary for any action taken by the commission. No

133 vacancy in the membership of the commission shall impair the right of a majority of the
134 members to form a quorum or to exercise all of its rights, powers, and duties.

135 **Drafting note: Technical change.**

136 | § ~~33.1-414~~ 33.2-XXX. Powers and duties of commission.

137 The commission shall:

138 1. Construct, reconstruct, alter, improve, expand, make loans or otherwise provide
139 | financial assistance to, and operate transportation improvements in~~7~~ the district for the use and
140 benefit of the public.

141 2. Acquire by gift, purchase, lease, in-kind contribution to construction costs, or
142 | otherwise any transportation improvements in the district and sell, lease as lessor, transfer~~2~~, or
143 dispose of any part of any transportation improvements in such manner and upon such terms as
144 the commission may determine to be in the best interests of the district. However, prior to
145 disposing of any such property or interest therein, the commission shall conduct a public hearing
146 with respect to such disposition. At the hearing, the residents and owner of property within the
147 | district shall have an opportunity to be heard. At least ~~ten~~ 10 days' notice of the time and place
148 of such hearing shall be published in a newspaper of general circulation in the district, as
149 prescribed by the commission. Such public hearing may be adjourned from time to time.

150 3. Negotiate and contract with any person with regard to any matter necessary and
151 | proper to provide any transportation improvements, including~~, but not limited to,~~ the financing,
152 acquisition, construction, reconstruction, alteration, improvement, expansion, or maintenance of
153 any transportation improvements in the district.

154 4. Enter into a continuing service contract for a purpose authorized by this chapter and
155 make payments of the proceeds received from the special taxes levied pursuant to this chapter,
156 together with any other revenues, for installments due under that service contract. The district
157 may apply such payments annually during the term of that service contract in an amount
158 sufficient to make the installment payments due under that contract, subject to the limitation
159 imposed by this chapter. However, payments for any such service contract shall be conditioned

160 upon the receipt of services pursuant to the contract. Such a contract shall not obligate a locality
161 to make payments for services of the district.

162 5. Accept the allocations, contributions, or funds of any available source, or ~~to~~ reimburse
163 from, any available source, including, ~~but not limited to~~, any person, for ~~either~~ the whole or any
164 part of the costs, expenses, and charges incident to the acquisition, construction, reconstruction,
165 maintenance, alteration, improvement, ~~and or~~ expansion of any transportation improvements in
166 the district.

167 6. Contract for the extension and use of any public mass transit system or highway into
168 territory outside the district on such terms and conditions as the commission determines.

169 7. Employ and fix the compensation of personnel ~~which~~ who may be deemed necessary
170 for the construction, operation, or maintenance of any transportation improvements in the
171 district.

172 8. Have prepared an annual audit of the district's financial obligations and revenues, and,
173 upon review of such audit, request a tax rate adequate to provide tax revenues ~~which~~ that,
174 together with all other revenues, are required by the district to fulfill its annual obligations.

175 **Drafting note: Technical changes are made. This section is relocated here although**
176 **it was previously found after existing §§ 33.1-412 and 33.1-413 to keep the order of these**
177 **sections consistent with other chapters found in this subtitle and to keep sections on the**
178 **Commission consecutive.**

179 ~~§ 33.1-412. Creation of district advisory boards.~~

180 ~~Within thirty days after the creation of a district, a district advisory board shall be~~
181 ~~appointed for each district created pursuant to this chapter.~~

182 **Drafting note: This section is repealed because it is repetitive of the following**
183 **section, existing § 33.1-413 and to mirror the creation and establishment of districts in**
184 **other chapters in this subtitle, such as Transportation Districts Within Certain Counties,**
185 **existing Chapter 15 of Title 33.1 which only has one section on district advisory boards**
186 **which mirrors existing § 33.1-413.**

187 | § ~~33.1-413~~ 33.2-XXX. Appointment of district advisory boards.

188 | Within ~~thirty~~ 30 days after the establishment of a district under this chapter, the local
189 | governing body from each locality within which any portion of the district is located shall
190 | appoint six members to a district advisory board. Three of the six members from each locality
191 | shall be chosen by the local governing body from nominations submitted to the local governing
192 | body by the petitioners. All members shall own or represent commercially or industrially zoned
193 | land property within the district. Each member shall be appointed for a term of four years,
194 | except the initial appointment of advisory board members shall provide that the terms of three of
195 | the members shall be for two years. If a vacancy occurs with respect to an advisory board
196 | member initially appointed by a local governing body, or any successor of such a member, the
197 | local governing body shall appoint a new member who is a representative or owner of
198 | commercially or industrially zoned property within the local district. If a vacancy occurs with
199 | respect to an advisory board member initially nominated by the petitioners, or any successor
200 | thereof, the remaining advisory board members initially nominated by the petitioners, or their
201 | successors, shall nominate a new member for selection by the local governing body.

202 | District advisory board members shall serve without pay, but the local governing body
203 | shall provide the advisory board with facilities for the holding of meetings, and the commission
204 | shall appropriate funds needed to defray the reasonable expenses and fees of the advisory board
205 | which that shall not exceed \$20,000 annually, including ~~without limitation~~ expenses and fees
206 | arising out of the preparation of the annual report. Such appropriations shall be based on an
207 | annual budget submitted by the board, and approved by the commission, sufficient to carry out
208 | its responsibilities under this chapter. The advisory board shall elect a chairman and a secretary
209 | and such other officers as it deems necessary. The advisory board shall fix the time for holding
210 | regular meetings, but it shall meet at least once every year. Special meetings of the advisory
211 | board shall be called by the chairman or by two members of the advisory board upon written
212 | request to the secretary of the advisory board. A majority of the members shall constitute a
213 | quorum.

214 The advisory board shall present an annual report to the commission on the
215 transportation needs of the district and on the activities of the advisory board, and the advisory
216 board shall present special reports on transportation matters as requested by the commission or
217 the local governing body ~~of the locality~~ concerning taxes to be levied pursuant to this chapter.

218 **Drafting note: Technical changes.**

219 § ~~33.1-415 32.-XXX~~. Annual special improvements tax; use of revenues.

220 Upon the written request of the commission made concurrently to the local governing
221 body or bodies pursuant to this chapter, each local governing body may levy and collect an
222 annual special improvements tax on taxable real estate zoned for commercial or industrial use or
223 used for such purposes and taxable leasehold interests in that portion of the improvement district
224 within its jurisdiction. Notwithstanding the provisions of Article 4 (§ 58.1-3229 et seq.) of
225 Chapter 32 of Title 58.1, the tax shall be levied on the assessed fair market value of the taxable
226 real property. The rate of the special improvements tax shall not be more than ~~\$.20 20 cents~~
227 (\$0.20) per \$100 of the assessed fair market value of any taxable real estate or the assessable
228 value of taxable leasehold property as specified by § 58.1-3203; however, if all the owners in
229 any district so request in writing, this limitation on rate shall not apply. Such special
230 improvements taxes shall be collected at the same time and in the same manner as the locality's
231 taxes are collected, and the proceeds shall be kept in a separate account. The effective date of
232 the initial assessment shall be January 1 of the year following adoption of the resolution creating
233 the district. All revenues received by each locality pursuant to such taxes shall be paid to or at
234 the direction of the district commission for its use pursuant to this chapter.

235 **Drafting note: Technical change.**

236 § ~~33.1-416 33.2-XXX~~. Agreements with Commonwealth Transportation Board; payment
237 of special improvements tax to Transportation Trust Fund.

238 A. The district may contract with the Commonwealth Transportation Board for the
239 Board to perform any of the purposes of the district.

240 The district may agree by contract to pay all or a portion of the special improvements tax
241 to the Commonwealth Transportation Board.

242 Prior to executing any such contract, the district shall seek the agreement of each local
243 governing body creating the district that the locality's officer charged with the responsibility for
244 preparing the locality's annual budget shall submit in the budget for each fiscal year in which
245 any Commonwealth of Virginia Transportation Contract Revenue Bonds issued for such district
246 are outstanding; all amounts to be paid to the Commonwealth Transportation Board under such
247 contract during such fiscal year.

248 If the amount required to be paid to the Commonwealth Transportation Board under the
249 contract is not so paid for a period of ~~sixty~~ 60 days after such amount is due, the Commonwealth
250 Transportation Board shall, until such amount has been paid, withhold sufficient funds from
251 funds appropriated and allocated, pursuant to Article ~~1.1 4~~ (§ ~~33.1-23.01~~ 33.2-XXX et seq.) of
252 Chapter 1 ~~of Title 33.1~~, to the highway construction district in which the transportation
253 improvements covered by such contract are located or to such locality or localities in which
254 such transportation improvements are located and to use such funds to satisfy the contractual
255 requirements.

256 B. While nothing in this chapter shall limit the authority of any locality to change the
257 classification of property zoned for commercial or industrial use or used for such purpose upon
258 the written request or approval of the owner of any property affected by such change after the
259 effective date of any such contract, should a change in zoning classification so requested result
260 in a shortfall in the total annual revenues from the imposition of the special improvements tax
261 and the payments required to be made to the Commonwealth Transportation Board pursuant to
262 the contract, the district shall request the local governing body to increase the rate of such tax by
263 such amount up to the maximum authorized rate as may be necessary to prevent such shortfall.
264 If, however, a deficit remains after any rezoning and adjustment of the tax rate or the rate is at
265 the maximum authorized rate and cannot be increased, then the amount of funds otherwise
266 appropriated and allocated, pursuant to the highway allocation formula as provided by law, to

267 the highway construction district in which the project covered by such contract is located or to
268 such county or counties in which such project is located, shall be reduced by the amount of such
269 deficit and used to satisfy the deficit.

270 **Drafting note: Technical changes.**

271 § ~~33.1-417~~ 33.2-XXX. Jurisdiction of localities and officers, etc., not affected.

272 Neither the creation of a district nor any other provision in this chapter shall affect the
273 power, jurisdiction, or duties of the respective local governing bodies; sheriffs; treasurers;
274 commissioners of the revenue; circuit, district, or other courts; clerks of any court; magistrates;
275 or any other local or state officer in regard to the area embraced in any district, ~~nor or~~ restrict or
276 prevent any locality, ~~or~~ town, or its governing body, from imposing and collecting taxes or
277 assessments for public improvements as permitted by law. Any locality ~~which that~~ creates a
278 district pursuant to this chapter may obligate itself with respect to the zoning ordinances, zoning
279 ordinance text, and regulations relating thereto for all commercial and industrial classifications
280 within the district as provided in this chapter for a term not to exceed ~~twenty~~ 20 years from the
281 date on which such district is created.

282 **Drafting note: Technical changes.**

283 § ~~33.1-418~~ 33.2-XXX. Allocation of funds to districts.

284 The ~~local~~ governing body of any locality in which a district has been created pursuant to
285 this chapter may advance funds or provide matching funds from money not otherwise
286 specifically allocated or obligated. Such funds may be received or generated from whatever
287 source, including, ~~without limitation,~~ general revenues, special fees and assessments, state
288 allocations, and contributions from private sources to a local district to assist the local district to
289 undertake the transportation improvements for which it was created. To assist the district with
290 an approved transportation improvement, the Commonwealth Transportation Board may
291 allocate to a district created pursuant to this chapter only funds allocated, pursuant to Article ~~1.1~~
292 4 (§ ~~33.1-23.01~~ 33.2-XXX et seq.) of Chapter 1 ~~of Title 33.1,~~ and subsection A of § 58.1-638, to
293 the construction districts and localities in which such transportation district is located.

294 **Drafting note: Technical changes.**

295 § ~~33.1-419~~ 33.2-XXX. Reimbursement for advances to district.

296 To the extent that a locality or town has made advances to the district, the commission
297 shall direct the district treasurer to reimburse the locality or town from any district funds not
298 otherwise specifically allocated or obligated.

299 **Drafting note: No change.**

300 § ~~33.1-420~~ 33.2-XXX. Cooperation between districts and other political subdivisions.

301 Any district created pursuant to this chapter may enter into agreements with ~~counties,~~
302 cities, localities, towns, or other political subdivisions of the Commonwealth for joint or
303 cooperative action in accordance with the authority contained in § 15.2-1300.

304 **Drafting note: Technical change to conform definition of locality as meaning**
305 **counties and cities.**

306 § ~~33.1-421~~ 33.2-XXX. Tort liability.

307 No pecuniary liability of any kind shall be imposed upon the Commonwealth or any
308 locality, town, or landowner therein because of any act, agreement, contract, tort, malfeasance,
309 misfeasance, or nonfeasance by or on the part of a district, or its agents, servants, or employees.

310 **Drafting note: Technical change.**

311 § ~~33.1-422~~ 33.2-XXX. Approval by Commonwealth Transportation Board.

312 The district may not construct or improve a transportation improvement without the
313 approval of both the Commonwealth Transportation Board and the locality in which the
314 transportation improvement will be located. At the request of the commission, the
315 Commissioner of Highways may exercise the powers of condemnation provided in Chapter 2 (§
316 25.1-200 et seq.) of Title 25.1, §§ ~~33.1-89~~ 33.2-XXX through ~~33.1-132~~ 33.2-XXX, or § ~~33.1-~~
317 ~~229,~~ 33.2-XXX for the purpose of acquiring property for transportation improvements within
318 the district.

319 Upon completion of such construction or improvement, the Commonwealth
320 Transportation Board shall take any affected public highway into the appropriate state highway

321 system ~~of state highways~~ for purposes of maintenance and subsequent improvements as
322 necessary. Upon acceptance by the Commonwealth of such highway into a state highway
323 system ~~of highways~~, all rights, title, and interest in the right-of-way and improvements of any
324 affected highway shall vest in the Commonwealth. Upon completion of construction or
325 improvement of a mass transit system, all rights, title, and interest in the right-of-way and
326 improvements of such mass transit system shall vest in an agency or instrumentality of the
327 Commonwealth designated by the Commonwealth Transportation Board.

328 **Drafting note: Technical changes.**

329 § ~~33.1-423~~ 33.2-XXX. Enlargement of local districts.

330 The district shall be enlarged by resolution of the local governing body ~~of the locality~~
331 upon the petitions of the district commission and the owners of at least ~~fifty-one~~ 51 percent of
332 either the land area or assessed value of land of the district within each locality; and of at least
333 ~~fifty-one~~ 51 percent of either the land area or assessed value of land located within the territory
334 sought to be added to the district. However, any such territory shall be contiguous to the existing
335 district. The petition shall present the information required by § ~~33.1-410~~ 33.2-XXX. Upon
336 receipt of such a petition, the locality shall use the standards and procedures provided in § ~~33.1-~~
337 ~~410~~ 33.2-XXX, except that the residents and owners of both the existing district and the area
338 proposed for the enlargement shall have the right to appear and show cause why any property
339 should not be included in the proposed district.

340 If the local governing body finds the enlargement of a local district would be in
341 accordance with the applicable comprehensive plan for the development of the area, in the best
342 interests of the residents and owners of the property within the proposed district, and in
343 furtherance of the public health, safety, and general welfare, and if the local governing body
344 finds that enlargement of the district does not limit or adversely affect the rights and interests of
345 any party ~~which as that has~~ contracted with the district, the local governing body ~~of a locality~~
346 may pass a resolution providing for the enlargement of the district.

347 **Drafting note: Technical changes.**

348 | § ~~33.1-424~~ 33.2-XXX. Abolition of local transportation districts.

349 | A. Any district created pursuant to this chapter may be abolished by resolutions passed
350 | by each local governing body within whose locality any portion of the district lies, upon the
351 | joint petition of the commission and the owners of at least ~~fifty-one~~ 51 percent of the land area
352 | located within the district in each locality. Joint petitions shall:

353 | 1. State whether the purposes for which the district was formed have been substantially
354 | achieved;

355 | 2. State whether all obligations incurred by the district have been fully paid;

356 | 3. Describe the benefits ~~which that~~ can be expected from the abolition of the district; and

357 | 4. Request each affected local governing body to abolish the district.

358 | B. Upon receipt of such a petition, each local governing body, in considering the
359 | abolition of the district, shall use the standards and procedures described in § ~~33.1-410~~ 33.2-
360 | XXX mutatis mutandis, except that all interested persons who either reside on or who own real
361 | property within the boundaries of the district shall have the right to appear and show cause why
362 | the district should not be abolished.

363 | C. If each local governing body finds that (i) the abolition of the district ~~(i)~~ is in
364 | accordance with the applicable locality's comprehensive plan for the development of the area;
365 | (ii) the abolition of the district is in the best interests of the residents and owners of the property
366 | within the district; (iii) the abolition of the district is in furtherance of the public health, safety,
367 | and welfare; and (iv) ~~that~~ all debts of the district have been paid and the purposes of the district
368 | either have been, or should not be, fulfilled or finds that each local governing body with the
369 | approval of the voters of each locality has agreed to assume the debts of the district, then each
370 | local governing body may pass a resolution abolishing the district and the district advisory
371 | board. Upon abolition of the district, the title to all funds and properties owned by the district at
372 | the time of such dissolution shall vest in the locality in which the district or portion thereof was
373 | located.

374 | **Drafting note: Technical changes.**

375 | § ~~33.1-425~~ 33.2-XXX. Chapter to constitute complete authority for acts authorized;
376 liberal construction.

377 | This chapter shall constitute complete authority for the district to take the actions
378 authorized in this chapter. This chapter, being necessary for the welfare of the Commonwealth
379 and its inhabitants, shall be liberally construed to effect its purposes. Any court test concerning
380 | the validity of any bonds ~~which~~ that may be issued for transportation improvements made
381 pursuant to this chapter may be determined pursuant to Article 6 (§ 15.2-2650 et seq.) of
382 Chapter 26 of Title 15.2.

383 | **Drafting note: Technical changes.**

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 ~~15~~ .

TRANSPORTATION DISTRICTS WITHIN CERTAIN COUNTIES.

Drafting note: Existing Chapter 15 of Title 33.1, Transportation Districts within Certain Counties, is retained as Chapter of proposed Title 33.2 and placed within Subtitle IV on Local and Regional Transportation.

§ ~~33.1-430~~ 33.2-XXX. Definitions.

~~The following words and phrases when As used in this chapter shall have the meanings respectively ascribed to them in this section except in those instances where, unless the context clearly indicates requires a different meaning:~~

"Commission" means the governing body of a local transportation improvement district created pursuant to this chapter.

"Cost" means all or any part of the following:

- 1. Acquisition, construction, reconstruction, alteration, landscaping, utilities, parking, conservation, remodeling, equipping, or enlarging of transportation improvements or any portion thereof;
- 2. Acquisition of land, rights-of-way, property rights, easements, and interests for construction, alteration, or expansion of transportation improvements;
- 3. Demolishing or relocating any structure on land so acquired, including the cost of acquiring any lands to which such structure may be relocated;
- 4. All labor, materials, machinery, and equipment necessary or incidental to the construction or expansion of a transportation improvement;
- 5. Financing charges, insurance, interest, and reserves for interest on all bonds prior to and during construction and, if deemed advisable by the commission, for a reasonable period after completion of such construction;
- 6. Reserves for principal and interest;
- 7. Reserves for extensions, enlargements, additions, replacements, renovations, and improvements;

- 28 8. Provisions for working capital;
- 29 9. Engineering and architectural expenses and services, including ~~but not limited to~~
30 surveys, borings, plans, and specifications;
- 31 10. Subsequent addition to or expansion of any project and the cost of determining the
32 feasibility or practicability of such construction;
- 33 11. Financing construction of, addition to, or expansion of transportation improvements
34 and operating such improvements; and
- 35 12. Expenses incurred in connection with the creation of the district, not to exceed
36 \$150,000.
- 37 "County" means any county having a population of more than 500,000.
- 38 "District" means any transportation improvement district created pursuant to this
39 chapter.
- 40 "District advisory board" or "advisory board" means the board appointed pursuant to §
41 ~~33.1-434~~ 33.2-XXX.
- 42 "Federal agency" means the United States of America or any department, bureau,
43 agency, or instrumentality thereof.
- 44 "Governing body" means the governing body of a county.
- 45 "Owner" or "landowner" means the person that is assessed with real property taxes
46 pursuant to § 58.1-3281 by the commissioner of the revenue or other assessing officer of the
47 locality in which the subject real property is located.
- 48 "Participating town" means a town that has real property within its boundaries included
49 within a district created pursuant to this chapter.
- 50 "Revenue" means any or all fees, tolls, rents, receipts, assessments, taxes, money, and
51 income derived by the district, including any cash contribution or payments made to the district
52 by the Commonwealth, any political subdivision thereof, or any other source.
- 53 "Transportation improvements" means any real or personal property acquired,
54 constructed, improved, or used for constructing, improving, or operating any (i) public mass

55 transit system or (ii) highway, or portion or interchange thereof, including parking facilities
56 located within a district created pursuant to this chapter. Such improvements~~shall~~ include,
57 ~~without limitation~~, public mass transit systems, public highways, and all buildings, structures,
58 approaches, and facilities thereof and appurtenances thereto, rights-of-way, bridges, tunnels,
59 stations, terminals, and all related equipment and fixtures.

60 **Drafting note: Technical changes.**

61 § ~~33.1-431~~ 33.2-XXX. Creation of district.

62 A. A district may be created in a county by a resolution of the governing body. Any such
63 resolution shall be considered only upon the petition, to the governing body, of the owners of at
64 least 51 percent of either the land area or the assessed value of real property that (i) is within the
65 boundaries of the proposed district, (ii) has been zoned for commercial or industrial use or is
66 used for such purposes, and (iii) would be subject to the annual special improvement tax
67 authorized by § ~~33.1-435~~ 33.2-XXX if the proposed district is created. Any proposed district
68 within a county may include any real property within a town or towns within the boundaries of
69 such county.

70 B. The petition to the governing body shall:

- 71 1. Set forth the name and describe the boundaries of the proposed district;
- 72 2. Describe the transportation improvements proposed within the district;
- 73 3. Propose a plan for providing such transportation improvements within the district and
74 describe specific terms and conditions with respect to all commercial and industrial zoning
75 classifications and uses, densities, and criteria related thereto that the petitioners request for the
76 proposed district;
- 77 4. Describe the benefits that can be expected from the provision of such transportation
78 improvements within the district; and
- 79 5. Request the governing body to establish the proposed district for the purposes set forth
80 in the petition.

81 C. Upon the filing of such a petition, the governing body shall fix a day for a hearing on
82 the question of whether the proposed district shall be created. The hearing shall consider
83 whether the residents and owners of real property within the proposed district would benefit
84 from the establishment of the proposed district. All interested persons who either reside in or
85 own taxable real property within the proposed district shall have the right to appear and show
86 cause why any property or properties should not be included in the proposed district. If real
87 property within a town is included in the proposed district, a copy of the petition and notice of
88 the public hearing shall be delivered to the town council at least 30 days prior to the public
89 hearing, and the town council may by resolution determine if the town council wishes any
90 property located within the town to be included within the proposed district and any such
91 resolution shall be delivered to the governing body prior to the public hearing required by this
92 section. Such resolution shall be binding upon the governing body with respect to the inclusion
93 or exclusion of such properties within the proposed district. If that resolution permits any
94 commercial or industrial property located within a town to be included in the proposed district,
95 then, if requested to do so by the petition, the town council of any town that has adopted a
96 zoning ordinance also shall pass a resolution, to be effective upon creation of the proposed
97 district, that is consistent with the requirements of ~~the third sentence of~~ subsection ~~D~~E with
98 respect to commercial and industrial zoning classifications that shall be in force in that portion
99 of the town included in the district. The petition shall comply with the provisions of this section
100 with respect to minimum acreage or assessed valuation. Notice of the hearing shall be given by
101 publication once a week for three consecutive weeks in a newspaper of general circulation
102 within the locality. At least 10 days shall intervene between the third publication and the date set
103 for the hearing. Such public hearing may be adjourned from time to time.

104 D. If the governing body finds the creation of the proposed district would be in
105 furtherance of the county's comprehensive plan for the development of the area^{3.2} in the best
106 interests of the residents and owners of real property within the proposed district^{3.2} and in
107 furtherance of the public health, safety, and welfare, the governing body may pass a resolution;

108 ~~which shall be~~ that is reasonably consistent with the petition, that ~~would create~~ creates the
109 district upon final adoption, and that ~~would provide~~ provides for the appointment of an advisory
110 board in accordance with this chapter upon final adoption. Any such resolution shall be
111 conclusively presumed to be reasonably consistent with the petition if, following the public
112 hearing, as provided in the following provisions of this section, the petition continues to comply
113 with the provisions of this section with respect to the criteria relating to minimum acreage or
114 assessed valuation.

115 E. The resolution shall provide a description with specific terms and conditions of all
116 commercial and industrial zoning classifications that apply within the district, but not within any
117 town within the district that has adopted a zoning ordinance, that shall be in force in the district
118 upon its creation, together with any related criteria and a term of years, not to exceed 20 years,
119 as to which each such zoning classification and each related criterion set forth therein shall
120 remain in force within the district without elimination, reduction, or restriction, except (i) upon
121 the written request or approval of the owner of any property affected by a change, (ii) as
122 required to comply with the provisions of the Chesapeake Bay Preservation Act (§ 10.1-2100 et
123 seq.) or the regulations adopted pursuant thereto, (iii) as required to comply with the provisions
124 of the federal Clean Water Act regarding municipal and industrial stormwater discharges (33
125 U.S.C. § ~~1342(P)~~ 1342(p)) and regulations promulgated thereunder by the federal
126 Environmental Protection Agency, or (iv) as specifically required to comply with any other state
127 or federal law.

128 F. A resolution creating a district shall also provide either that the district shall expire
129 ~~either~~ (i) 50 years from the date upon which the resolution is passed or (ii) when the district is
130 abolished in accordance with ~~this chapter § 33.2-xxx~~ [§ 33.1-445]. After the public hearing, the
131 governing body may adopt a proposed resolution creating the district. No later than two business
132 days following the adoption of the proposed resolution, copies of the proposed resolution shall
133 be available in the office of the clerk of the governing body for inspection and copying by the
134 petitioning landowners and their representatives, by members of the public, and by

135 representatives of the news media. No later than seven business days following the adoption of
136 the proposed resolution, any petitioning landowner may notify the clerk of the governing body
137 in writing that the petitioning landowner is withdrawing his signature from the petition. Within
138 the same seven-day period, the owner of any property in the proposed district that will be
139 subject to the annual special improvements tax authorized by § ~~33.1-435~~ 33.2-XXX, if the
140 proposed district is created, or the attorney-in-fact of any such owner may notify the clerk of the
141 governing body in writing that he is adding his signature to the petition. The governing body
142 may then proceed to final adoption of the proposed resolution following that seven-day period.
143 If any petitioner has withdrawn his signature from the petition during that seven-day period,
144 then the governing body may readopt the proposed resolution only if the petition, including any
145 landowners who have added their signatures after adoption of the proposed resolution, continues
146 to meet the provisions of this section. After the governing body has readopted the resolution
147 creating the district, the district shall be established and the name of the district shall be "The
148 Transportation Improvement District."

149 **Drafting note: Technical changes are made. Two new subsections are created in**
150 **order to clarify internal references. The reference to the Clean Water Act now specifically**
151 **includes which section of the Clean Water Act is referred to in new subsection E.**

152 § ~~33.1-432~~ 33.2-XXX. Commission to exercise powers of the district.

153 The powers of a district created pursuant to this chapter shall be exercised by a
154 commission. The commission shall consist of four members of the governing body, appointed
155 by the governing body, plus one member of the town council of any participating town,
156 appointed by the town council of the participating town. In addition to the ~~foregoing appointed~~
157 members, the Chairman of the Commonwealth Transportation Board or his designee shall be a
158 member of the commission of any district created pursuant to this chapter.

159 The ~~members of the~~ commission shall elect ~~one of their number~~ a chairman ~~of the~~
160 commission from its membership. The chairman may be the chairman or presiding officer of the
161 governing body. In addition, the ~~members of the~~ commission, with the advice of the district

162 advisory board, shall elect a secretary and a treasurer, who may be members or employees of the
163 governing body, the town council of a participating town, or other governmental body. The
164 offices of secretary and treasurer may be combined. A majority of the commission members
165 shall constitute a quorum, and a majority vote shall be necessary for any action taken by the
166 commission. No vacancy in the membership of the commission shall impair the right of a
167 majority of the members to form a quorum or to exercise all of its rights, powers, and duties.

168 **Drafting note: Technical changes.**

169 § ~~33.1-433~~ 33.2-XXX. Powers and duties of commission.

170 The commission may:

171 1. Expend district revenues to construct, reconstruct, alter, improve, expand, or make
172 loans or otherwise provide for the cost of transportation improvements and for financial
173 assistance to operate transportation improvements in the district for the use and benefit of the
174 public.

175 2. Acquire by gift, purchase, lease, in-kind contribution to construction costs, or
176 otherwise any transportation improvements in the district and sell, lease as lessor, transfer, or
177 dispose of any part of any transportation improvements in such manner and upon such terms as
178 the commission may determine to be in the best interests of the district. However, prior to
179 disposing of any such property or interest therein, the commission shall conduct a public hearing
180 with respect to such disposition. At the hearing, the residents and owner of property within the
181 district shall have an opportunity to be heard. At least 10 days' notice of the time and place of
182 such hearing shall be published in a newspaper of general circulation in the district, as
183 prescribed by the commission. Such public hearing may be adjourned from time to time.

184 3. Negotiate and contract with any person with regard to any matter necessary and
185 proper to provide any transportation improvements, including, ~~but not limited to,~~ the financing,
186 acquisition, construction, reconstruction, alteration, improvement, expansion, operation, or
187 maintenance of any transportation improvements in the district. For the purposes of this chapter,
188 transportation improvements are within the district if they are located within the boundaries of

189 the transportation improvement district or are reasonably deemed necessary for the construction
190 or operation of transportation improvements within the boundaries of the transportation
191 improvement district.

192 4. Enter into a continuing service contract for a purpose authorized by this chapter and
193 make payments of the proceeds received from the special taxes levied pursuant to this chapter,
194 together with any other revenues, for installments due under that service contract. The district
195 may apply such payments annually during the term of that service contract in an amount
196 sufficient to make the installment payments due under that contract, subject to the limitation
197 imposed by this chapter. However, payments for any such service contract shall be conditioned
198 upon the receipt of services pursuant to the contract. Such a contract shall not obligate a county
199 or participating town to make payments for services of the district.

200 5. Accept the allocations, contributions, or funds of any available source; or ~~to~~ reimburse
201 from; any available source, including, ~~but not limited to~~, any person, for ~~either~~ the whole or any
202 part of the costs, expenses, and charges incident to the acquisition, construction, reconstruction,
203 maintenance, alteration, improvement, and expansion or the operation of any transportation
204 improvements in the district.

205 6. Contract for the extension and use of any public mass transit system or highway into
206 territory outside the district on such terms and conditions as the commission determines.

207 7. Employ and fix the compensation of personnel who may be deemed necessary for the
208 construction, operation, or maintenance of any transportation improvements in the district.

209 8. Have prepared an annual audit of the district's financial obligations and revenues, and;
210 upon review of such audit, request a tax rate adequate to provide tax revenues ~~which that~~,
211 together with all other revenues, are required by the district to fulfill its annual obligations.

212 **Drafting note: Technical changes.**

213 § ~~33.1-434~~ 33.2-XXX. District advisory boards.

214 Within ~~thirty~~ 30 days after the establishment of a district under this chapter, the
215 governing body shall appoint six members to a district advisory board, and the town council of

216 any participating town shall appoint two members to that board. Three of the six members
217 appointed by the governing body shall be chosen by the governing body from nominations
218 submitted to the governing body by the petitioners. If any members are subject to appointment
219 by a town council as provided ~~above~~ in this section, then one of the two members so appointed
220 shall be chosen by the town council from nominations submitted to the town council by the
221 petitioners. All members shall own or represent the owners of real property within the district
222 zoned or used for commercial or industrial purposes. Each member shall be appointed for a term
223 of four years, except the initial appointment of advisory board members shall provide that the
224 terms of three of the members shall be for two years. If a vacancy occurs with respect to an
225 advisory board member initially appointed by a governing body or a town council, or any
226 successor of such a member, the governing body or the town council, as appropriate, shall
227 appoint a new member who is an owner or representative of an owner of real property within the
228 district zoned or used for commercial or industrial purposes. If a vacancy occurs with respect to
229 an advisory board member initially nominated by the petitioners, or any successor thereof, the
230 remaining advisory board members initially nominated by the petitioners, or the successors of
231 such remaining advisory board members, shall nominate a new member for selection by the
232 governing body or town council, as appropriate.

233 District advisory board members shall serve without pay, but the governing body shall
234 provide the advisory board with facilities for the holding of meetings, and the commission shall
235 appropriate funds needed to defray the reasonable expenses and fees of the advisory board,
236 ~~which that~~ shall not exceed \$20,000 annually, including ~~without limitation~~ expenses and fees
237 arising out of the preparation of the annual report. Such appropriations shall be based on an
238 annual budget submitted by the board, and approved by the commission, sufficient to carry out
239 its responsibilities under this chapter. The advisory board shall elect a chairman and a secretary
240 and such other officers as it deems necessary. The advisory board shall fix the time for holding
241 regular meetings, but it shall meet at least once every year. Special meetings of the advisory
242 board shall be called by the chairman or by two members of the advisory board upon written

243 request to the secretary of the advisory board. A majority of the members shall constitute a
244 quorum.

245 The advisory board shall present an annual report to the commission on the
246 transportation needs of the district and on the activities of the advisory board, and the advisory
247 board shall present special reports on transportation matters as requested by the commission or
248 the governing body concerning taxes to be levied pursuant to this chapter.

249 **Drafting note: Technical changes.**

250 | § ~~33.1-435~~ 33.2-XXX. Annual special improvements tax; use of revenues.

251 Upon the written request of the commission made to the governing body, the governing
252 body may levy and collect an annual special improvements tax on taxable real estate zoned for
253 commercial or industrial use or used for such purposes and taxable leasehold interests in that
254 portion of the improvement district within its jurisdiction. For the purposes of this chapter, real
255 property that is zoned to permit multiunit residential use but not yet used for that purpose and
256 multiunit residential real property that is primarily leased or rented to residential tenants or other
257 occupants by an owner who is engaged in such a business shall be deemed to be property in
258 commercial use and therefore subject to the special improvements tax authorized by this section.
259 Notwithstanding the provisions of Article 4 (§ 58.1-3229 et seq.) of Chapter 32 of Title 58.1, the
260 tax shall be levied on the assessed fair market value of the taxable real property. The rate of the
261 | special improvements tax shall not be more than ~~\$.40~~ 40 cents (\$0.40) per \$100 of the assessed
262 fair market value of any taxable real estate or the assessable value of taxable leasehold property
263 as specified by § 58.1-3203; however, if all the owners in any district so request in writing, this
264 limitation on rate shall not apply. Such special improvements taxes shall be collected at the
265 same time and in the same manner as the county's taxes are collected, and the proceeds shall be
266 kept in a separate account. The effective date of the initial levy shall be, at the discretion of the
267 governing body, either (i) January 1 of the year following adoption of the resolution creating the
268 district or (ii) on a prorated basis for the period from the date when the special improvements
269 tax was first imposed through the remainder of the year. All revenues received by the county

270 pursuant to such taxes shall be paid to or at the direction of the district commission for its use
271 pursuant to this chapter. All revenues generated from the annual special improvements taxes
272 levied by the governing body pursuant to this section shall be deemed to be contributions of that
273 governing body in any transportation cost-sharing formula.

274 **Drafting note: Technical change.**

275 § ~~33.1-436~~ 33.2-XXX. Agreements with the Commonwealth Transportation Board;
276 payment of special improvements tax to Transportation Trust Fund.

277 A. In addition to any other power conferred by this chapter, the district may contract
278 with the Commonwealth Transportation Board for the Board to perform any of the purposes of
279 the district.

280 The district may agree by contract to pay all or a portion of the special improvements tax
281 to the Commonwealth Transportation Board.

282 Prior to executing any such contract, the district shall seek the agreement of the
283 governing body that the county's officer, charged with the responsibility for preparing the
284 county's annual budget, shall submit in the budget for each fiscal year in which any
285 Commonwealth of Virginia Transportation Contract Revenue Bonds issued for such district are
286 outstanding, all amounts to be paid to the Commonwealth Transportation Board under such
287 contract during such fiscal year.

288 If the amount required to be paid to the Commonwealth Transportation Board under the
289 contract is not so paid for a period of ~~sixty~~ 60 days after such amount is due, the Commonwealth
290 Transportation Board shall, until such amount has been paid, withhold sufficient funds from
291 funds appropriated and allocated, pursuant to Article ~~1.1~~ 4 (§ ~~33.1-23.01~~ 33.2-XXX et seq.) of
292 Chapter 1 ~~of Title 33.1~~, to the highway construction district in which the transportation
293 improvements covered by such contract are located or to such locality or localities in which
294 such transportation improvements are located and to use such funds to satisfy the contractual
295 requirements.

296 B. While nothing in this chapter shall limit the authority of any county or participating
297 town to change the classification of property zoned for commercial or industrial use or used for
298 such purpose upon the written request or approval of the owner of any property affected by such
299 change after the effective date of any such contract, should a change in zoning classification so
300 requested result in a shortfall in the total annual revenues from the imposition of the special
301 improvements tax and the payments required to be made to the Commonwealth Transportation
302 Board pursuant to the contract, the district shall request the governing body to increase the rate
303 of such tax by such amount up to the maximum authorized rate as may be necessary to prevent
304 such shortfall. If, however, a deficit remains after any rezoning and adjustment of the tax rate or
305 the rate is at the maximum authorized rate and cannot be increased, then the amount of funds
306 otherwise appropriated and allocated, pursuant to the highway allocation formula as provided by
307 law, to the highway construction district in which the project covered by such contract is located
308 or to the county, shall be reduced by the amount of such deficit and used to satisfy the deficit.

309 **Drafting note: Technical changes.**

310 § ~~33.1-437~~ 33.2-XXX. Payments for certain changes in zoning classifications or use.

311 A. For any real property within the district for which a county or participating town
312 changes its zoning classification from one that is subject to the special improvements tax
313 authorized by § ~~33.1-436~~ 33.2-XXX to a classification that is not subject to that tax, ~~then~~
314 county or participating town shall require the simultaneous payment from the property owner of
315 a sum representing the present value of the future special improvements taxes estimated by the
316 county to be lost as a result of such change in classification. On a case-by-case basis, however,
317 the governing body or town council of a participating town may, in its sole discretion, defer, for
318 no more than ~~sixty~~ 60 days, the effective date of such change in zoning classification. Upon
319 deferral, the lump sum provided for in this subsection shall be paid to the county in immediately
320 available funds acceptable to the county before the deferred effective date. If the landowner fails
321 to make this lump sum payment as and when required, the change in zoning classification shall
322 not become effective and the ordinance shall be void. Special improvements taxes previously

323 paid in the year of the zoning change may be credited toward the payment on a prorated basis.
324 The portion of the payment that may be credited shall be that portion of the year following the
325 change in zoning classification. If at the time there is outstanding a contract by which the district
326 has agreed to pay all or a portion of the special improvements tax to the Commonwealth
327 Transportation Board, then the district and the Commonwealth Transportation Board shall agree
328 to a method of calculating the present value of the loss of future special improvements taxes
329 resulting from such a change in zoning classification and the procedure for payment of such
330 funds to the Commonwealth Transportation Board. Whenever any county or participating town
331 acts in accordance with such an agreement between the district and the Commonwealth
332 Transportation Board, the change in zoning classification shall not be considered to have
333 resulted in a shortfall in the total annual revenues from the imposition of the special
334 improvements tax and the payments required to be made to the Commonwealth Transportation
335 Board.

336 B. Any owner of any real property that is subject to the special improvements tax
337 authorized by § ~~33.1-436~~ 33.2-XXX because it is zoned to permit multiunit residential use but is
338 not yet used for that purpose or because it consists of multiunit residential real property that is
339 primarily leased or rented to residential tenants or other occupants by an owner who is engaged
340 in such a business; who wishes to change the use of the real property to one that is not subject to
341 that tax; shall be required, prior to any such change in use, to pay to the county a sum
342 representing the present value of the future special improvements taxes estimated by the county
343 to be lost as a result of such change in use.

344 **Drafting note: Technical changes.**

345 § ~~33.1-438~~ 33.2-XXX. Jurisdiction of localities and officers, etc., not affected.

346 Neither the creation of a district nor any other provision in this chapter shall affect the
347 power, jurisdiction, or duties of the respective local governing bodies of any county or
348 participating town; sheriffs; treasurers; commissioners of the revenue; circuit, district, or other
349 courts; clerks of any court; magistrates; or any other local or state officer in regard to the area

350 | embraced in any district, ~~not or~~ restrict or prevent any county or its governing body, or
351 | participating town or its town council, from imposing and collecting taxes or assessments for
352 | public improvements as permitted by law. Any county that creates a district pursuant to this
353 | chapter and any participating town may obligate itself with respect to the zoning ordinances,
354 | zoning ordinance text, and regulations relating thereto for all commercial and industrial
355 | classifications within the district as provided in this chapter for a term not to exceed ~~twenty~~ 20
356 | years from the date on which such district is created.

357 | **Drafting note: Technical changes.**

358 | ~~§ 33.1-439~~ 33.2-XXX. Allocation of funds to districts.

359 | The governing body ~~of any county~~ or the town council of ~~any a~~ participating town in
360 | which a district has been created pursuant to this chapter may advance funds or provide
361 | matching funds from money not otherwise specifically allocated or obligated. Such funds may
362 | be received or generated from whatever source, including, ~~without limitation,~~ general revenues,
363 | special fees and assessments, state allocations, and contributions from private sources to a local
364 | district to assist the local district to undertake the transportation improvements for which it was
365 | created. To assist the district with an approved transportation improvement, the Commonwealth
366 | Transportation Board may allocate to a district created pursuant to this chapter only funds
367 | allocated, pursuant to Article ~~1.1 4~~ (§ ~~33.1-23.01~~ 33.2-XXX et seq.) of Chapter 1 ~~of Title 33.1,~~
368 | and subsection A of § 58.1-638, to the construction districts and localities in which such
369 | transportation district is located.

370 | **Drafting note: The reference to the "governing body of any county" is changed to**
371 | **"governing body" per the definitions for this chapter. Technical changes are also made.**

372 | ~~§ 33.1-440~~ 33.2-XXX. Reimbursement for advances to district.

373 | To the extent that a county or participating town has made advances to the district, the
374 | commission shall direct the district treasurer to reimburse the county or participating town from
375 | any district funds not otherwise specifically allocated or obligated.

376 | **Drafting note: No changes.**

377 § ~~33.1-441~~ 33.2-XXX. Cooperation between districts and other political subdivisions.

378 Any district created pursuant to this chapter may enter into agreements with counties,
379 cities, and towns, or other political subdivisions of the Commonwealth, with the Metropolitan
380 Washington Airports Authority, or with the Washington Metropolitan Area Transit Authority
381 for joint or cooperative action in accordance with the standards and procedures set forth in §
382 15.2-1300.

383 **Drafting note: Technical change.**

384 § ~~33.1-442~~ 33.2-XXX. Tort liability.

385 No pecuniary liability of any kind shall be imposed upon the Commonwealth or any
386 county, city, or town, or landowner therein because of any act, agreement, contract, tort,
387 malfeasance, misfeasance, or nonfeasance by or on the part of a district, or its agents, servants,
388 or employees.

389 **Drafting note: Technical change.**

390 § ~~33.1-443~~ 33.2-XXX. Approval by Commonwealth Transportation Board.

391 The district may not construct or improve a transportation improvement without the
392 approval of the Commonwealth Transportation Board, the county in which the transportation
393 improvement will be located, and, with respect to any improvements located within a
394 participating town, its town council. At the request of the commission, the Commissioner of
395 Highways may exercise the powers of condemnation provided in Chapter 2 (§ 25.1-200 et seq.)
396 of Title 25.1, §§ ~~33.1-89~~ 33.2-XXX through ~~33.1-132~~ 33.2-XXX, or § ~~33.1-229~~, 33.2-XXX for
397 the purpose of acquiring property for transportation improvements within the district.

398 Upon completion of such construction or improvement, the Commonwealth
399 Transportation Board shall take any affected public highway into the appropriate state highway
400 system ~~of state highways~~ for purposes of maintenance and subsequent improvements as
401 necessary. Upon acceptance by the Commonwealth of such highway into a state highway
402 system ~~of highways~~, all rights, title, and interest in the right-of-way and improvements of any
403 affected highway shall vest in the Commonwealth. Upon completion of construction or

404 improvement of a mass transit system, all rights, title, and interest in the right-of-way and
405 improvements of such mass transit system shall vest in an agency or instrumentality of the
406 Commonwealth designated by the Commonwealth Transportation Board.

407 **Drafting note: Technical changes.**

408 § ~~33.1-444~~ 33.2-XXX. Enlargement of local districts.

409 The district shall be enlarged by resolution of the governing body upon the petitions of
410 the district commission and the owners of at least ~~fifty-one~~ 51 percent of either the land area or
411 the assessed value of real property of the district; and of at least ~~fifty-one~~ 51 percent of either the
412 land area or assessed value of real property located within the territory sought to be added to the
413 district. However, any such territory shall be contiguous to the existing district. The petition
414 shall present the information required by § ~~33.1-431~~ 33.2-XXX. Upon receipt of such a petition,
415 the county shall use the standards and procedures provided in § ~~33.1-431~~ 33.2-XXX, except that
416 the residents and owners of both the existing district and the area proposed for the enlargement
417 shall have the right to appear and show cause why any property should not be included in the
418 proposed district. If the proposed enlargement of the district encompasses any portion of a town,
419 then such standards and procedures shall include the requirement to obtain a resolution from the
420 town council in the manner set forth in § ~~33.1-431~~ 33.2-XXX, which shall have the same effect
421 as set forth in that section.

422 If the governing body finds the enlargement of a local district would be in accordance
423 with the applicable comprehensive plan for the development of the area, in the best interests of
424 the residents and owners of the property within the proposed district, and in furtherance of the
425 public health, safety, and general welfare, and if the governing body finds that enlargement of
426 the district does not limit or adversely affect the rights and interests of any party that has
427 contracted with the district, the governing body may pass a resolution providing for the
428 enlargement of the district.

429 **Drafting note: Technical changes.**

430 § ~~33.1-445~~ 33.2-XXX. Abolition of local transportation districts.

431 A. Any district created pursuant to this chapter may be abolished by resolutions passed
432 by the governing body and the town council of any participating town, upon the joint petition of
433 the commission and the owners of at least ~~fifty-one~~ 51 percent of the land area located within
434 the district. Joint petitions shall:

435 1. State whether the purposes for which the district was formed have been substantially
436 achieved;

437 2. State whether all obligations incurred by the district have been fully paid;

438 3. Describe the benefits that can be expected from the abolition of the district; and

439 4. Request the governing body to abolish the district.

440 B. Upon receipt of such a petition, the governing body and the town council of any
441 participating town, in considering the abolition of the district, shall use the standards and
442 procedures described in § ~~33.1-431~~ 33.2-XXX mutatis mutandis, except that all interested
443 persons who either reside on or who own real property within the boundaries of the district shall
444 have the right to appear and show cause why the district should not be abolished.

445 C. If the governing body and the town council of any participating town find that (i) the
446 abolition of the district ~~(i)~~ is in accordance with the locality's comprehensive plan for the
447 development of the area; (ii) the abolition of the district is in the best interests of the residents
448 and owners of the property within the district; (iii) the abolition of the district is in furtherance
449 of the public health, safety, and welfare; and ~~(iv) that~~ all debts of the district have been paid and
450 the purposes of the district either have been, or should not be, fulfilled or finds that the
451 governing body with the approval of the voters of the county has agreed to assume the debts of
452 the district, then the governing body and the town council of any participating town may pass
453 resolutions abolishing the district and the district advisory board. Upon abolition of the district,
454 the title to all funds and properties owned by the district at the time of such dissolution shall vest
455 in the county.

456 **Drafting note: Technical changes.**

457 | § ~~33.1-446~~ 33.2-XXX. Chapter to constitute complete authority for acts authorized;
458 liberal construction.

459 This chapter shall constitute complete authority for the district to take the actions
460 authorized by this chapter. This chapter, being necessary for the welfare of the Commonwealth
461 and its inhabitants, shall be liberally construed to effect its purposes. Any court test concerning
462 the validity of any bonds that may be issued for transportation improvements made pursuant to
463 this chapter shall be determined pursuant to the Public Finance Act of 1991 (§ 15.2-2600 et
464 seq.).

465 **Drafting note: No changes.**

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.

U.S. ROUTE 58 CORRIDOR DEVELOPMENT FUND AND PROGRAM.

Drafting note: One section from existing Article 15 of Chapter 1 of Title 33.1 and one section from Title 58.1 are relocated here as Chapter __ of proposed Title 33.2 because both are related to a local and regional transportation issue, specifically the development of the U.S. Route 58 Corridor Development Fund and Program.

§ ~~58.1-815~~ 33.2-xxx. U.S. Route 58 Corridor Development Fund.

There is hereby created in the Department of the Treasury a special nonreverting fund which shall be a part of the Transportation Trust Fund and which shall be known as the U.S. Route 58 Corridor Development Fund, consisting of the first \$40 million of annual collections of the state recordation taxes imposed by this chapter; provided, however, this dedication shall not affect the local recordation taxes under §§ 58.1-802 B and 58.1-814. The Fund shall also include such other funds as may be appropriated by the General Assembly from time to time, and designated for this Fund and all interest, dividends and appreciation which may accrue thereto. Any moneys remaining in the Fund at the end of a biennium shall not revert to the General Fund, but shall remain in the Fund. Allocations from this Fund may be paid to any authority, locality or commission for the purposes specified in § ~~33.1-221.1:2~~ 33.2-xxx.

§ ~~33.1-221.1:2~~ 33.2-XXX. U.S. Route 58 Corridor Development Program.

A. The General Assembly declares it to be in the public interest that the economic development needs and economic growth potential of south-central and ~~southwestern~~ Southwest Virginia be addressed by a special nonreverting fund ~~which that~~ shall be a part of the Transportation Trust Fund and ~~which that~~ shall be known as the U.S. Route 58 Corridor Development Fund as established in § ~~58.1-815~~ 33.2-xxx (the Fund). Moneys contained in the Fund shall be used for the costs of providing an adequate, modern, safe, and efficient highway system, generally along Virginia's southern boundary (the Program), including ~~without limitation;~~ environmental and engineering studies, ~~rights-of-way~~ rights-of-way acquisition, construction, improvements, and financing costs.

28 B. Allocations from ~~this~~ the Fund shall be made annually by the Commonwealth
29 Transportation Board for the creation and enhancement of a safe, efficient, highway system
30 connecting the communities, businesses, places of employment, and residents of the
31 southwestern-most portion of the Commonwealth to the communities, businesses, places of
32 employment, and residents of the southeastern-most portion of the Commonwealth, thereby
33 enhancing the economic development potential, employment opportunities, mobility, and
34 quality along such highway.

35 C. Allocations from the Fund shall not diminish or replace allocations made or planned
36 to be made from other sources or diminish allocations to which any highway, project, facility,
37 district, system, or locality would be entitled under other provisions of this title, but shall be
38 supplemental to other allocations to the end that highway resource improvements in the U.S.
39 Route 58 Corridor may be accelerated and augmented. ~~Allocations Notwithstanding any~~
40 ~~contrary provisions of this title, allocations~~ from the Fund may be applied to highway projects in
41 the ~~interstate~~ Interstate System, primary, ~~or~~ secondary state highway system, or urban highway
42 ~~system, contrary provisions of this title notwithstanding~~. Allocations under this subsection shall
43 not be limited to projects involving only existing U.S. Route 58, but may be made to projects
44 involving other highways, provided that the broader goal of creation of an adequate modern
45 highway system generally along Virginia's southern boundary is served thereby.

46 D. The Commonwealth Transportation Board may expend such funds from all sources as
47 may be lawfully available to initiate the Program and to support bonds and other obligations
48 referenced in subsection F ~~of this section~~. Any moneys expended from the Transportation Trust
49 Fund for the Program, other than moneys contained in the Fund, may be reimbursed from the
50 Fund, to the extent permitted by Article X, Section 9 of the Constitution of Virginia. ~~In the~~
51 ~~event funds from the U.S. Route 58 Corridor Development Fund are used for projects contained~~
52 ~~in the Department's fiscal year 1988-89 Six Year Improvement Program and related to the~~
53 ~~purposes of this section, such funds shall be reimbursed to the U.S. Route 58 Corridor~~

54 ~~Development Fund from the Transportation Trust Fund not to exceed the amounts allocated to~~
55 ~~such projects in the Program.~~

56 E. The Commonwealth Transportation Board is encouraged to utilize the existing four-
57 lane divided highways, available rights-of-way acquired for additional four-laning, bypasses,
58 connectors, and alternate routes.

59 F. To the extent permitted by Article X, Section 9 of the Constitution of Virginia,
60 moneys contained in the Fund may be used to secure payment of bonds or other obligations, and
61 the interest thereon, issued in furtherance of the purposes of this section. In addition, the
62 Commonwealth Transportation Board is authorized to receive, dedicate, or use legally available
63 Transportation Trust Fund revenues and any other available sources of funds to secure the
64 payment of bonds or other obligations, including interest thereon, in furtherance of the Program.
65 No bond or other obligations payable from revenues of the Fund shall be issued unless
66 specifically approved by the General Assembly. No bond or other obligations, secured in whole
67 or in part by revenues of the Fund, shall pledge the full faith and credit of the Commonwealth.

68 G. Forty million dollars shall be transferred annually to the Fund with the first such
69 transfer to be made on July 1, 1990, or as soon thereafter as reasonably practicable. Such
70 transfer shall be made by the issuance of a treasury loan at no interest in the amount of \$40
71 million to the Fund to ensure that the Fund is fully funded on the first day of the fiscal year.
72 Such treasury loan shall be repaid from the Commonwealth's portion of the state recordation tax
73 imposed by Chapter 8 (§ 58.1-800 et seq.) of Title 58.1 designated for the Fund by ~~§ 58.1-815~~
74 33.2-xxx. For each fiscal year following July 1, 1990, the Secretary of Finance is authorized to
75 make additional treasury loans in the amount of \$40 million on July 1 of such fiscal years, and
76 such treasury loans shall be repaid in a like manner as provided in ~~the preceding sentence~~ this
77 subsection.

78 **Drafting note: Technical changes are made including deleted obsolete language in**
79 **subsection D.**

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 __.

NORTHERN VIRGINIA TRANSPORTATION DISTRICT FUND AND PROGRAM.

Drafting note: One existing section from Title 33.1 and one section from Title 58.1 are relocated here as Chapter __ of proposed Title 33.2 because both are related to a local and regional transportation issue, specifically the Northern Virginia Transportation District Fund and Program.

§ ~~58.1-815.1~~ 33.2-xxx. Northern Virginia Transportation District Fund.

A. There is hereby created in the Department of the Treasury a special nonreverting fund which shall be a part of the Transportation Trust Fund and which shall be known as the Northern Virginia Transportation District Fund, consisting of transfers pursuant to § 58.1-816 of annual collections of the state recordation taxes attributable to the Cities of Alexandria, Fairfax, Falls Church, Manassas, and Manassas Park and the Counties of Arlington, Fairfax, Loudoun, and Prince William; however, this dedication shall not affect the local recordation taxes under §§ 58.1-802 B and 58.1-814. The Fund shall also include any public rights-of-way use fees appropriated by the General Assembly; any state or local revenues, including but not limited to, any funds distributed pursuant to § ~~33.1-23.3, 33.1-23.4 or 33.1-23.5~~ § 33.2-xxx, 33.2-xxx, or 33.2-xxx, which may be deposited into the Fund pursuant to a contract between a jurisdiction participating in the Northern Virginia Transportation District Program and the Commonwealth Transportation Board; and any other funds as may be appropriated by the General Assembly from time to time and designated for this Fund and all interest, dividends and appreciation which may accrue thereto. Any moneys remaining in the Fund at the end of a biennium shall not revert to the general fund, but shall remain in the Fund, subject to the determination by the Commonwealth Transportation Board that a Category 2, 3 or 4 project or projects may be funded.

B. Allocations from this Fund may be paid (i) to any authority, locality or commission for the purposes of paying the costs of the Northern Virginia Transportation District Program which consists of the following: the Fairfax County Parkway, Route 234 Bypass, Metrorail

28 Capital Improvements attributable to Fairfax County including Metro parking expansions,
29 Metro Capital Improvements, including the Franconia-Springfield Metrorail Station and new
30 rail car purchases, Route 7 improvements in Loudoun County and Fairfax County, the Route
31 50/Courthouse Road interchange improvements in Arlington County, the Route 28/Route 625
32 interchange improvements in Loudoun County, Metrorail capital improvements attributable to
33 the City of Alexandria including the King Street Metrorail Station access, Metrorail capital
34 improvements attributable to Arlington County, including Ballston Station improvements, Route
35 15 safety improvements in Loudoun County, Route 28 parallel roads in Loudoun County, the
36 Route 28/Sterling Boulevard interchange in Loudoun County, Route 1/Route 123 interchange
37 improvements in Prince William County, Lee Highway improvements in the City of Fairfax,
38 Route 123 improvements in Fairfax County, Telegraph Road improvements in Fairfax County,
39 Route 123 Occoquan River Bridge, Gallows Road in Fairfax County, Route 1/Route 234
40 interchange improvements in Prince William County, Potomac-Rappahannock Transportation
41 Commission bus replacement program, and Dulles Corridor Enhanced Transit program and (ii)
42 for Category 4 projects as provided in § 2 of the act or acts authorizing the issuance of Bonds
43 for the Northern Virginia Transportation District Program.

44 C. On or before July 15, 1994, \$19 million shall be transferred to the Fund. Such transfer
45 shall be made by the issuance of a treasury loan at no interest in the amount of \$19 million in
46 the event such an amount is not included for the Fund in the general appropriation act enacted
47 by the 1994 Session of the General Assembly. Such treasury loan shall be repaid from the
48 Commonwealth's portion of the state recordation tax imposed by Chapter 8 (§ 58.1-800 et seq.)
49 of Title 58.1 designated for the Fund by this section and § 58.1-816.

50 | § ~~33.1-221.1:3~~ 33.2-XXX. Northern Virginia Transportation District Program.

51 A. The General Assembly declares it to be in the public interest that the economic
52 development needs and economic growth potential of Northern Virginia be addressed by a
53 special transportation program to provide for the costs of providing an adequate, modern, safe,
54 and efficient transportation network in Northern Virginia ~~which~~ that shall be known as the

55 Northern Virginia Transportation District Program (the Program), including, ~~without limitation,~~
56 environmental and engineering studies, rights-of-way acquisition, construction, improvements
57 to all modes of transportation, and financing costs. The Program consists of the following
58 projects: the Fairfax County Parkway; the Route 234 Bypass; ~~Metrorail Capital Improvements~~
59 capital improvements attributable to Fairfax County, including Metro parking expansions;
60 ~~Metro Capital Improvements; Metrorail capital improvements,~~ including the Franconia-
61 Springfield Metrorail Station and new rail car purchases; the Route 7 improvements in
62 Loudoun County and Fairfax County; the Route 50/Courthouse Road interchange
63 improvements in Arlington County; the Route 28/Route 625 interchange improvements in
64 Loudoun County; the Metrorail capital improvements attributable to the City of Alexandria,
65 including the King Street Metrorail Station access; the Metrorail capital improvements attributable
66 to Arlington County, including Ballston Station improvements; the Route 15 safety
67 improvements in Loudoun County; the Route 28 parallel roads in Loudoun County; the Route
68 28/Sterling Boulevard interchange in Loudoun County; the Route 1/Route 123 interchange
69 improvements in Prince William County; the Lee Highway improvements in the City of
70 Fairfax; the Route 123 improvements in Fairfax County; the Telegraph Road improvements in
71 Fairfax County; the Route 123 Occoquan River Bridge; the Gallows Road in Fairfax County; the
72 Route 1/Route 234 interchange improvements in Prince William County; the Potomac-
73 Rappahannock Transportation Commission bus replacement program; and the Dulles Corridor
74 Enhanced Transit program.

75 B. Allocations to ~~this~~ the Program from the Northern Virginia Transportation District
76 Fund established by § ~~58.1-815.1~~ 33.2-xxx shall be made annually by the Commonwealth
77 Transportation Board for the creation and enhancement of a safe, and efficient transportation
78 system connecting the communities, businesses, places of employment, and residences of the
79 Commonwealth, thereby enhancing the economic development potential, employment
80 opportunities, mobility, and quality of life in ~~Virginia~~ the Commonwealth.

81 C. Except in the event that the Northern Virginia Transportation District Fund is
82 insufficient to pay for the costs of the Program, allocations to the Program shall not diminish or
83 replace allocations made from other sources or diminish allocations to which any district,
84 system, or locality would be entitled under other provisions of this title, but shall be
85 supplemental to other allocations to the end that transportation improvements in the Northern
86 Virginia Transportation District may be accelerated and augmented. Allocations under this
87 subsection shall be limited to projects specified in subdivision ~~(2) (s)~~ 2 XXX of § ~~33.1-268~~
88 33.2-XXX.

89 D. The Commonwealth Transportation Board may expend such funds from all sources as
90 may be lawfully available to initiate the Program and to support bonds and other obligations
91 referenced in subsection E.

92 E. The Commonwealth Transportation Board is authorized to receive, dedicate, or use
93 first from (i) revenues received from the Northern Virginia Transportation District Fund; (ii) to
94 the extent required, funds appropriated and allocated, pursuant to the highway allocation
95 formula as provided by law, to the highway construction district in which the project or projects
96 to be financed are located or to the city or county in which the project or projects to be financed
97 are located; (iii) to the extent required, legally available revenues of the Transportation Trust
98 Fund; and (iv) such other funds ~~which that~~ may be appropriated by the General Assembly for
99 the payment of bonds or other obligations, including interest thereon, issued in furtherance of
100 the Program. No such bond or other obligations shall pledge the full faith and credit of the
101 Commonwealth.

102 **Drafting note: Technical changes.**

103 ~~§ 33.1-221.1:4.~~

104 **Drafting note: Repealed by Acts 2011, c. 430, cl. 1.**

105 ~~§ 33.1-221.1:5.~~

106 **Drafting note: Repealed by Acts 1995, c. 354.**

107 ~~§ 33.1-221.1:6.~~

108 **Drafting note: Repealed by Acts 2011, c. 430, cl. 1.**

109 ~~§ 33.1-221.1:7. Regional Transportation District Program.~~

110 **Drafting note: Section 33.1-221.1:7, enacted by Chapter 853 of the Acts of**
111 **Assembly of 2002, was deleted at the direction of the Virginia Code Commission because**
112 **the referenda held pursuant to Chapter 853 of the Acts of Assembly of 2002 failed to pass.**

113

1 | CHAPTER ~~16~~ __.

2 | TRANSPORTATION DISTRICT WITHIN THE CITY OF CHARLOTTESVILLE AND THE

3 | COUNTY OF ALBEMARLE.

4 | **Drafting note: Existing Chapter 16 of Title 33.1, Transportation District within the**

5 | **City of Charlottesville and the County of Albemarle, is relocated as Chapter __ of**

6 | **proposed Title 33.2.**

7 | § ~~33.1-447~~ 33.2-XXX. Definitions.

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

9 | "Commission" means the governing body of the local transportation district created

10 | pursuant to this chapter.

11 | "Cost" means all or any part of the cost of the following:

12 | 1. Acquisition, construction, reconstruction, alteration, landscaping, utilities, parking,

13 | conservation, remodeling, equipping, or enlarging of transportation improvements or any

14 | portion thereof;

15 | 2. Acquisition of land, rights-of-way, property rights, easements, and interests for

16 | construction, alteration, or expansion of transportation improvements;

17 | 3. Demolishing or relocating any structure on land so acquired, including the cost of

18 | acquiring any lands to which such structure may be relocated;

19 | 4. All labor, materials, machinery, and equipment necessary or incidental to the

20 | construction or expansion of a transportation improvement;

21 | 5. Financing charges, insurance, interest, and reserves for interest on all bonds prior to

22 | and during construction and, if deemed advisable by the commission, for a reasonable period

23 | after completion of such construction;

24 | 6. Reserves for principal and interest;

25 | 7. Reserves for extensions, enlargements, additions, replacements, renovations, and

26 | improvements;

27 | 8. Provisions for working capital;

28 | 9. Engineering and architectural expenses and services, including ~~but not limited to~~
29 surveys, borings, plans, and specifications;

30 | 10. Subsequent addition to or expansion of any project and the cost of determining the
31 feasibility or practicability of such construction;

32 | 11. Financing construction of, addition to, or expansion of transportation improvements
33 and placing them in operation; and

34 | 12. Expenses incurred in connection with the creation of the district, not to exceed
35 \$150,000.

36 | "District" means the district created pursuant to this chapter.

37 | "District advisory board" or "advisory board" means the board appointed pursuant to this
38 chapter.

39 | "Federal agency" means the United States of America or any department, bureau,
40 agency, or instrumentality thereof.

41 | "Locality" means the ~~city~~ City of Charlottesville and the County of Albemarle.

42 | "Owner" or "landowner" means the person ~~who~~ that has the usufruct, control, or
43 occupation of the taxable real property as determined, pursuant to § 58.1-3281, by the
44 commissioner of the revenue of the locality in which the subject real property is located.

45 | "Revenue" means any or all fees, tolls, rents, receipts, assessments, taxes, money, and
46 income derived by the district, including any cash contribution or payments made to the district
47 by the Commonwealth, any political subdivision thereof, or any other source.

48 | "Transportation improvements" means any real or personal property acquired,
49 constructed, improved, or used in constructing or improving any highway, or portion or
50 interchange thereof, including parking facilities located within a district created pursuant to this
51 chapter. Such improvements ~~shall~~ include, ~~without limitation~~, public highways and all buildings,
52 structures, approaches, and facilities thereof and appurtenances thereto, rights-of-way, bridges,
53 tunnels, and all related equipment and fixtures.

54 | **Drafting note: Technical changes.**

55 | § ~~33.1-448~~ 33.2-XXX. Creation of district.

56 | A. A district may be created in the City of Charlottesville and the County of Albemarle
57 | by resolutions of such localities' ~~local~~ governing bodies. Such resolutions shall be considered
58 | upon the petition, to each ~~local~~ governing body of ~~the a~~ locality in which the proposed district ~~is~~
59 | ~~to be located, of by~~ the owners of at least 51 percent of either the land area or the assessed value
60 | of land, in each locality, ~~which that~~ (i) is within the boundaries of the proposed district and (ii)
61 | has been zoned for commercial or industrial use or is used for such purposes.

62 | B. The petition to the local governing bodies shall:

- 63 | 1. Set forth the name and describe the boundaries of the proposed district;
- 64 | 2. Describe the transportation improvements proposed within the district;
- 65 | 3. Propose a plan for providing such transportation improvements within the district and
66 | describe specific terms and conditions with respect to all commercial and industrial zoning
67 | classifications and uses, densities, and criteria related thereto ~~which that~~ the petitioners request
68 | for the proposed district;
- 69 | 4. Describe the benefits that can be expected from the provision of such transportation
70 | improvements within the district; and
- 71 | 5. Request the local governing bodies to establish the proposed district for the purposes
72 | set forth in the petition.

73 | C. Upon the filing of such a petition, each local governing body shall fix a day for a
74 | hearing on the question of whether the proposed district shall be created. The hearing shall
75 | consider whether the residents and owners of real property within the proposed district would
76 | benefit from the establishment of the proposed district. All interested persons who either reside
77 | in or own taxable real property within the proposed district shall have the right to appear and
78 | show cause why any property or properties should not be included in the proposed district. Such
79 | resolution shall be binding upon the local governing body with respect to the inclusion or
80 | exclusion of such properties within the proposed district. The petition shall comply with the
81 | provisions of this section with respect to minimum acreage or assessed valuation. Notice of the

82 hearing shall be given by publication once a week for three consecutive weeks in a newspaper
83 of general circulation within the locality. At least 10 days shall intervene between the third
84 publication and the date set for the hearing.

85 D. If both local governing bodies find the creation of the proposed district would be in
86 furtherance of their comprehensive plans for the development of the area, in the best interests of
87 the residents and owners of real property within the proposed district, and in furtherance of the
88 public health, safety, and welfare, both local governing bodies may pass resolutions, ~~which shall~~
89 be that are reasonably consistent with the petition, creating the district and providing for the
90 appointment of an advisory board in accordance with this chapter. The resolutions shall provide
91 a description with specific terms and conditions of all commercial and industrial zoning
92 classifications ~~which that~~ shall be in force in the district upon its creation, together with ~~any all~~
93 related criteria and a term of years, not to exceed 20 years, as to which each such zoning
94 classification and each related criterion set forth therein shall remain in force within the district
95 without elimination, reduction, or restriction, except (i) upon the written request or approval of
96 the owner of any property affected by a change or (ii) as specifically required to comply with
97 ~~state or~~ federal or state law.

98 Each resolution creating the district shall also provide either that the district shall expire
99 ~~either (i) (a)~~ 35 years from the date upon which the resolution is passed or ~~(ii) (b)~~ when the
100 district is abolished in accordance with ~~this chapter § 33.1-462~~. After the public hearing, each
101 local governing body shall deliver a certified copy of its proposed resolution creating the district
102 to the petitioning landowners or their attorneys-in-fact. Any petitioning landowner may then
103 withdraw his signature on the petition, in writing, at any time prior to the vote of the local
104 governing body. In the case where any ~~signatures~~ signature on the petition ~~are is~~ withdrawn, the
105 local governing body may pass the proposed resolution only upon certification that the petition
106 continues to meet the provisions of this section. After both local governing bodies have adopted
107 resolutions creating the district, the district shall be established and the name of the district shall
108 be "The Charlottesville-Albemarle Transportation Improvement District."

109 **Drafting note: Technical changes.**

110 § ~~33.1-449~~ 33.2-XXX. Commission to exercise powers of the district.

111 The powers of the district created pursuant to this chapter shall be exercised by a
112 commission. The commission shall consist of two members of the governing body of ~~both~~ each
113 localities in which the district ~~is located~~, appointed by ~~their~~ the respective local governing
114 bodies. In addition to the ~~foregoing appointed members~~, the Chairman of the Commonwealth
115 Transportation Board or his designee shall be a member of the commission of the district
116 created pursuant to this chapter.

117 The ~~members of the~~ commission shall elect ~~one of their number~~ a chairman ~~of the~~
118 commission from its membership. The chairman may be the chairman or presiding officer of a
119 local governing body. In addition, the ~~members of the~~ commission, with the advice of the
120 district advisory board, shall elect a secretary and a treasurer, who may be members or
121 employees of any local governing body or other governmental body. The offices of secretary
122 and treasurer may be combined. A majority of the commission members shall constitute a
123 quorum, and a majority vote shall be necessary for any action taken by the commission. No
124 vacancy in the membership of the commission shall impair the right of a majority of the
125 members to form a quorum or to exercise all of its rights, powers, and duties.

126 **Drafting note: Technical changes.**

127 § ~~33.1-452~~ 33.2-XXX. Powers and duties of commission.

128 The commission shall:

129 1. Construct, reconstruct, alter, improve, expand, or make loans or otherwise provide
130 financial assistance to, and operate transportation improvements in, the district for the use and
131 benefit of the public.

132 2. Acquire by gift, purchase, lease, in-kind contribution to construction costs, or
133 otherwise ~~any~~ transportation improvements in the district and sell, lease as lessor, transfer, or
134 dispose of any part of ~~any~~ transportation improvements in such manner and upon such terms as
135 the commission may determine to be in the best interests of the district. However, prior to

136 disposing of any such property or interest therein, the commission shall conduct a public hearing
137 with respect to such disposition. At the hearing, the residents and ~~owner~~ owners of property
138 within the district shall have an opportunity to be heard. At least 10 days' notice of the time and
139 place of such hearing shall be published in a newspaper of general circulation in the district, as
140 prescribed by the commission. Such public hearing may be adjourned from time to time.

141 3. Invite bids or request proposals from and contract with any person, as authorized by
142 law, with regard to any matter necessary and proper to provide ~~any~~ transportation
143 improvements, including, ~~but not limited to~~, the financing, acquisition, construction,
144 reconstruction, alteration, improvement, expansion, or maintenance of ~~any~~ transportation
145 improvements in the district.

146 4. Enter into a continuing service contract for a purpose authorized by this chapter and
147 make payments of the proceeds received from the special taxes levied pursuant to this chapter,
148 together with ~~any~~ all other revenues, for installments due under that service contract. The
149 district may apply such payments annually during the term of that service contract in an amount
150 sufficient to make the installment payments due under that contract, subject to the limitation
151 imposed by this chapter. However, payments for any such service contract shall be conditioned
152 upon the receipt of services pursuant to the contract. Such a contract shall not obligate a locality
153 to make payments for services of the district.

154 5. Accept the allocations, contributions, ~~or~~ funds of any available source; ~~or to~~ reimburse
155 from; any available source, including, ~~but not limited to~~, any person for ~~either~~ the whole or any
156 part of the costs, expenses, and charges incident to the acquisition, construction, reconstruction,
157 maintenance, alteration, improvement, and expansion of ~~any~~ transportation improvements in the
158 district.

159 6. Contract for the extension and use of any highway into territory outside the district on
160 such terms and conditions as the commission determines.

161 7. Employ and fix the compensation of personnel who may be deemed necessary for the
162 construction, operation, or maintenance of ~~any~~ transportation improvements in the district.

163 8. Have prepared an annual audit of the district's financial obligations and revenues, and,
164 upon review of such audit, request a tax rate adequate to provide tax revenues that, together with
165 all other revenues, are required by the district to fulfill its annual obligations.

166 **Drafting note: Technical changes including the relocation of this section so that it is**
167 **with other sections on the Commission and in the same order as other chapters.**

168 ~~§ 33.1-450. Creation of district advisory board.~~

169 ~~Within 30 days after the creation of the district, a district advisory board shall be~~
170 ~~appointed for the district created pursuant to this chapter.~~

171 **Drafting note: This section is deleted as unnecessary and repetitive of the first**
172 **sentence of the subsequent section and in keeping with the District Advisory Board**
173 **sections found in other chapters.**

174 ~~§ 33.1-451~~ 33.2-XXX. ~~Appointment of district~~ District advisory board.

175 Within 30 days after the establishment of the district under this chapter, the ~~local~~
176 governing body from each locality within which any portion of the district is located shall
177 appoint six members to a district advisory board. Three of the six members from each locality
178 shall be chosen by the local governing body from nominations submitted to the local governing
179 body by the petitioners. All members shall own or represent commercially or industrially zoned
180 land within the district. Each member shall be appointed for a term of four years, except the
181 initial appointment of advisory board members shall provide that the terms of three of the
182 members shall be for two years. If a vacancy occurs with respect to an advisory member initially
183 appointed by a local governing body, or any successor of such a member, the local governing
184 body shall appoint a new member who is a representative or owner of commercially or
185 industrially zoned property within the local district. If a vacancy occurs with respect to an
186 advisory board member initially nominated by the petitioners, or any successor thereof, the
187 remaining advisory board members initially nominated by the petitioners, or their successors,
188 shall nominate a new member for selection by the local governing body.

189 District advisory board members shall serve without pay, but the local governing body
190 shall provide the advisory board with facilities for the holding of meetings, and the commission
191 shall appropriate funds needed to defray the reasonable expenses and fees of the advisory board,
192 ~~which that~~ shall not exceed \$20,000 annually, including ~~without limitation~~ expenses and fees
193 arising out of the preparation of the annual report. Such appropriations shall be based on an
194 annual budget submitted by the board, and approved by the commission, sufficient to carry out
195 its responsibilities under this chapter. The advisory board shall elect a chairman and a secretary
196 and such other officers as it deems necessary. The advisory board shall fix the time for holding
197 regular meetings, ~~but it and~~ shall meet at least once every year. Special meetings of the advisory
198 board shall be called by the chairman or by two members of the advisory board upon written
199 request to the secretary of the advisory board. A majority of the members shall constitute a
200 quorum.

201 The advisory board shall present an annual report to the commission on the
202 transportation needs of the district and on the activities of the advisory board, and the advisory
203 board shall present special reports on transportation matters as requested by the commission or
204 the local governing body ~~of the locality~~ concerning taxes to be levied pursuant to this chapter.

205 **Drafting note: Technical changes.**

206 § ~~33.1-453~~ 33.2-XXX. Annual special improvements tax; use of revenues.

207 Upon the written request of the commission made concurrently to the local governing
208 body or bodies pursuant to this chapter, each local governing body may levy and collect an
209 annual special improvements tax on taxable real estate zoned for commercial or industrial use or
210 used for such purposes and taxable leasehold interests in ~~that the~~ portion of the improvement
211 district that is within its jurisdiction. Notwithstanding the provisions of Article 4 (§ 58.1-3229 et
212 seq.) of Chapter 32 of Title 58.1, the tax shall be levied on the assessed fair market value of the
213 taxable real property. The rate of the special improvements tax, when combined with all other
214 special taxes in ~~the this~~ Code of any kind imposed on land within the district, shall not be more
215 than ~~\$.25~~ 25 cents (\$0.25) per \$100 of the assessed fair market value of any taxable real estate

216 or the assessable value of taxable leasehold property as specified by § 58.1-3203; however, if all
217 the owners in any district so request in writing, this limitation on rate shall not apply. Such
218 special improvements taxes shall be collected at the same time and in the same manner as the
219 locality's taxes are collected, and the proceeds shall be kept in a separate account. The effective
220 date of the initial assessment shall be January 1 of the year following adoption of the resolution
221 creating the district. All revenues received by each locality pursuant to such taxes shall be paid
222 to or at the direction of the district commission for its use pursuant to this chapter.

223 **Drafting note: Technical changes.**

224 § ~~33.1-454~~ 33.2-XXX. Agreements with Commonwealth Transportation Board; payment
225 of special improvements tax to Transportation Trust Fund.

226 A. The district may contract with the Commonwealth Transportation Board for the
227 Board to perform any ~~of the purposes~~ purpose of the district.

228 The district may agree by contract to pay all or a portion of the special improvements tax
229 to the Commonwealth Transportation Board.

230 Prior to executing any such contract, the district shall seek the agreement of each local
231 governing body creating the district that the locality's officer charged with the responsibility for
232 preparing the locality's annual budget shall submit in the budget for each fiscal year in which
233 any Commonwealth of Virginia Transportation Contract Revenue Bonds issued for such district
234 are outstanding, all amounts to be paid to the Commonwealth Transportation Board under such
235 contract during such fiscal year.

236 If the amount required to be paid to the Commonwealth Transportation Board under the
237 contract is not so paid for a period of 60 days after such amount is due, the Commonwealth
238 Transportation Board shall, until such amount has been paid, withhold sufficient funds from
239 funds appropriated and allocated, pursuant to Article ~~1.1~~ 4 (§ ~~33.1-23.01~~ 33.2-XXX et seq.) of
240 Chapter 1 ~~of this title~~ [new cite], to the highway construction district in which the transportation
241 improvements covered by such contract are located or to such locality or localities in which

242 such transportation improvements are located and to use such funds to satisfy the contractual
243 requirements.

244 B. While nothing in this chapter shall limit the authority of any locality to change the
245 classification of property zoned for commercial or industrial use or used for such purpose upon
246 the written request or approval of the owner of any property affected by such change after the
247 effective date of any such contract, should a change in zoning classification so requested result
248 in a shortfall in the total annual revenues from the imposition of the special improvements tax
249 and the payments required to be made to the Commonwealth Transportation Board pursuant to
250 the contract, the district shall request the local governing body to increase the rate of such tax by
251 such amount up to the maximum authorized rate as may be necessary to prevent such shortfall.
252 If, however, a deficit remains after any rezoning and adjustment of the tax rate or the rate is at
253 the maximum authorized rate and cannot be increased, then the amount of funds otherwise
254 appropriated and allocated, pursuant to the highway allocation formula as provided by law, to
255 the highway construction district in which the project covered by such contract is located or to
256 such county or counties in which such project is located, shall be reduced by the amount of such
257 deficit and used to satisfy the deficit.

258 **Drafting note: Technical changes.**

259 § ~~33.1-455~~ 33.2-XXX. Jurisdiction of localities and officers, etc., not affected.

260 Neither the creation of a district nor any other provision in this chapter shall affect the
261 power, jurisdiction, or duties of the respective local governing bodies; sheriffs; treasurers;
262 commissioners of the revenue; circuit, district, or other courts; clerks of any court; magistrates;
263 or any other ~~local or~~ state or local officer in regard to the area embraced in any district, nor
264 restrict or prevent any locality, town, or its governing body from imposing and collecting taxes
265 or assessments for public improvements as permitted by law. Any locality that creates a district
266 pursuant to this chapter may obligate itself with respect to the zoning ordinances, zoning
267 ordinance text, and regulations relating thereto for all commercial and industrial classifications

268 within the district as provided in this chapter for a term not to exceed 20 years from the date on
269 which such district is created.

270 **Drafting note: Technical changes.**

271 § ~~33.1-456~~ 33.2-XXX. Allocation of funds to districts.

272 The ~~local~~ governing body of either locality in which a district has been created pursuant
273 to this chapter may advance funds or provide matching funds from money not otherwise
274 specifically allocated or obligated. Such funds may be received or generated from whatever
275 source, including, ~~without limitation~~, general revenues, special fees and assessments, state
276 allocations, and contributions from private sources to a local district to assist the local district to
277 undertake the transportation improvements for which it was created. To assist the district with
278 an approved transportation improvement, the Commonwealth Transportation Board may
279 allocate to a district created pursuant to this chapter only funds allocated, pursuant to Article ~~1.1~~
280 4 (§ ~~33.1-23.01~~ 33.2-XXX et seq.) of Chapter 1 ~~of this title~~, [new cite] and subsection A of §
281 58.1-638, to the highway construction districts and localities in which such transportation
282 district is located.

283 **Drafting note: Technical changes.**

284 § ~~33.1-457~~ 33.2-XXX. Reimbursement for advances to district.

285 To the extent that a locality ~~or town~~ has made advances to the district, the commission
286 shall direct the district treasurer to reimburse the locality or town from ~~any~~ district funds not
287 otherwise specifically allocated or obligated.

288 **Drafting note: Technical changes.**

289 § ~~33.1-458~~ 33.2-XXX. Cooperation between districts and other political subdivisions.

290 Any district created pursuant to this chapter may enter into agreements with counties,
291 cities, towns, or other political subdivisions of the Commonwealth for joint or cooperative
292 action in accordance with the authority contained in § 15.2-1300.

293 **Drafting note: No changes.**

294 § ~~33.1-459~~ 33.2-XXX. Tort liability.

295 No pecuniary liability of any kind shall be imposed upon the Commonwealth or any
296 locality, ~~town~~, or landowner therein because of any act, agreement, contract, tort, malfeasance,
297 misfeasance, or nonfeasance by or on the part of a district, or its agents, servants, or employees.

298 **Drafting note: Technical changes.**

299 § ~~33.1-460~~ 33.2-XXX. Approval by Commonwealth Transportation Board.

300 The district may not construct or improve a transportation improvement without the
301 approval of both the Commonwealth Transportation Board and the locality in which the
302 transportation improvement will be located. At the request of the commission, the
303 Commissioner of Highways may exercise the powers of condemnation provided in Chapter 2 (§
304 25.1-200 et seq.) of Title 25.1, ~~§§ 33.1-89 through 33.1-132~~, or ~~§ 33.1-229~~, §§ 33.2-XXX for
305 the purpose of acquiring property for transportation improvements within the district.

306 Upon completion of such construction or improvement, the Commonwealth
307 Transportation Board shall take any affected public highway into the appropriate state highway
308 system ~~of state highways~~ for purposes of maintenance and subsequent improvements as
309 necessary. Upon acceptance by the Commonwealth of such highway into a state highway
310 system ~~of highways~~, all rights, title, and interest in the ~~right-of-way~~ rights-of-way and
311 improvements of any affected highway shall vest in the Commonwealth. Upon completion of
312 construction or improvement of a mass transit system, all rights, title, and interest in the ~~right-~~
313 ~~of-way~~ rights-of-way and improvements of such mass transit system shall vest in an agency or
314 instrumentality of the Commonwealth designated by the Commonwealth Transportation Board.

315 **Drafting note: Technical changes.**

316 § ~~33.1-461~~ 33.2-XXX. Enlargement of district.

317 The district shall be enlarged by resolution of the ~~local~~ governing body of the locality
318 upon the petitions of the district commission and the owners of at least 51 percent of either the
319 land area or assessed value of land of the district within each locality, and the owners of at least
320 51 percent of either the land area or assessed value of land located within the territory sought to
321 be added to the district. However, any such territory shall be contiguous to the existing district.

322 The petition shall present the information required by § ~~33.1-410~~ 33.2-XXX. Upon receipt of
323 such a petition, the locality shall use the standards and procedures provided in § ~~33.1-410~~ 33.2-
324 XXX, except that the residents and owners of both the existing district and the area proposed for
325 the enlargement shall have the right to appear and show cause why any property should not be
326 included in the proposed district.

327 If the local governing body finds the enlargement of a local district would be in
328 accordance with the applicable comprehensive plan and transportation improvement program
329 for the development of the area, in the best interests of the residents and owners of the property
330 within the proposed district, and in furtherance of the public health, safety, and general welfare,
331 and if the local governing body finds that enlargement of the district does not limit or adversely
332 affect the rights and interests of any party that has contracted with the district, the governing
333 body of a locality may pass a resolution providing for the enlargement of the district.

334 **Drafting note: Technical changes.**

335 § ~~33.1-462~~ 33.2-XXX. Abolition of local transportation districts.

336 A. Any district created pursuant to this chapter may be abolished by resolutions passed
337 by each local governing body within whose locality any portion of the district lies, upon the
338 joint petition of the commission and the owners of at least 51 percent of the land area located
339 within the district in each locality. Joint petitions shall:

- 340 1. State whether the purposes for which the district was formed have been substantially
341 achieved;
- 342 2. State whether all obligations incurred by the district have been fully paid;
- 343 3. Describe the benefits that can be expected from the abolition of the district; and
- 344 4. Request each affected local governing body to abolish the district.

345 B. Upon receipt of such a petition, each local governing body, in considering the
346 abolition of the district, shall use the standards and procedures described in § ~~33.1-410~~ 33.2-
347 XXX mutatis mutandis, except that all interested persons who either reside on or who own real

348 property within the boundaries of the district shall have the right to appear and show cause why
349 the district should not be abolished.

350 C. If each local governing body finds that (i) the abolition of the district ~~(i)~~ is in
351 accordance with the applicable locality's comprehensive plan for the development of the area;
352 (ii) the abolition of the district is in the best interests of the residents and owners of the property
353 within the district; (iii) the abolition of the district is in furtherance of the public health, safety,
354 and welfare; and (iv) ~~that~~ all debts of the district have been paid and the purposes of the district
355 either have been, or should not be, fulfilled or finds that each local governing body with the
356 approval of the voters of each locality has agreed to assume the debts of the district, then each
357 local governing body may pass a resolution abolishing the district and the district advisory
358 board. Upon abolition of the district, the title to all funds and properties owned by the district at
359 the time of such dissolution shall vest in the locality in which the district or portion thereof was
360 located.

361 **Drafting note: Technical changes.**

362 § ~~33.1-463~~ 33.2-XXX. Chapter to constitute complete authority for acts authorized;
363 liberal construction.

364 This chapter shall constitute complete authority for the district to take the actions
365 authorized in this chapter. This chapter, being necessary for the welfare of the Commonwealth
366 and its inhabitants, shall be liberally construed to effect its purposes. Any court test concerning
367 the validity of any bonds that may be issued for transportation improvements made pursuant to
368 this chapter may be determined pursuant to Article 6 (§ 15.2-2650 et seq.) of Chapter 26 of Title
369 15.2.

370 **Drafting note: No changes.**

371 ~~CHAPTER 17.~~

372 ~~INTERSTATE PUBLIC-PRIVATE PARTNERSHIP COMPACT.~~

373 **Drafting note: This chapter was repealed in 2009.**

374 ~~§ 33.1-464.~~

375 **Drafting note: Repealed by Acts 2009, c. 638.**

376 ~~CHAPTER 18.~~

377 ~~VIRGINIA-NORTH CAROLINA INTERSTATE TOLL ROAD COMPACT.~~

378 **Drafting note: This chapter was repealed in 2009.**

379 ~~§ 33.1-465.~~

380 **Drafting note: Repealed by Acts 2008, c. 481, cl. 1, effective July 1, 2009.**

1 CHAPTER ~~71~~ __.

2 CHARLOTTESVILLE-ALBEMARLE REGIONAL TRANSIT AUTHORITY.

3 **Drafting note:** Existing Chapter 71 (§ 15.2-7022 et seq.) of Title 15.2,
4 Charlottesville-Albemarle Regional Transit Authority, is relocated as Chapter __ of
5 proposed Title 33.2 in order to have it located with other regional transit law associated
6 with Charlottesville and Albemarle, found in Chapter __.

7 ~~§ 15.2-7022. Short title.~~

8 ~~This chapter shall be known and may be cited as the Charlottesville-Albemarle Regional~~
9 ~~Transit Authority.~~

10 **Drafting note:** This section is deleted as unnecessary because of the Code-wide
11 application of § 1-244, which states that the caption of a subtitle, chapter, or article serves
12 as a short title citation.

13 ~~§ 15.2-7023~~ 33.2-XXX. Charlottesville-Albemarle Regional Transit Authority created.

14 There is hereby created a political subdivision of the Commonwealth known as the
15 Charlottesville-Albemarle Regional Transit Authority, ~~hereinafter known for purposes of this~~
16 ~~chapter referred to~~ as "the Authority."

17 **Drafting note:** Technical changes.

18 ~~§ 15.2-7024~~ 33.2-XXX. Powers of the Charlottesville-Albemarle Regional Transit
19 Authority.

20 The Authority is hereby granted all powers necessary or appropriate to carry out the
21 purposes of this ~~act, including the following, chapter, including the power and authority~~ to:

22 1. Prepare a regional transit plan for all or a portion of the areas located within the
23 ~~jurisdictional~~ boundaries of each member locality. The regional transit plan may include all or
24 portions of those areas within the City of Charlottesville and the County of Albemarle ~~and~~, shall
25 include, ~~but not necessarily be limited to~~, transit improvements of regional significance, and
26 those improvements necessary or incidental thereto, and shall from time to time ~~revise~~ be
27 revised and ~~amend the plan~~ amended;

28 2. When a transit plan is adopted according to subdivision 1, construct or acquire, by
29 purchase, lease, contract, or otherwise, the transit facilities specified in such transit plan;

30 3. Make, assume, and enter into all contracts, agreements, arrangements, and leases with
31 public or private entities as the Authority may determine, ~~which~~ are necessary or incidental to
32 the operation of its facilities or to the execution of the powers granted by this chapter, or may
33 operate such facilities itself;

34 4. Enter into contracts or agreements with the counties and cities embraced by the
35 Authority, with other transit commissions of transportation districts adjoining any county or city
36 embraced by the Authority, with any transportation authority, or with any federal, state, local, or
37 private, ~~or federal~~ entity to provide, or cause to be provided, transit facilities and services to the
38 area embraced by the Authority. Such contracts or agreements, together with ~~any~~ all agreements
39 or leases for the operation of such facilities, may be used by the Authority to finance the
40 construction and operation of transit facilities and such contracts, agreements, or leases shall
41 inure to the benefit of any creditor of the Authority;

42 5. Notwithstanding any other provision of law to the contrary ~~to~~:

43 a. Acquire land or any interest therein by purchase, lease, or gift and provide transit
44 facilities thereon for use in connection with any transit service; and

45 b. Prepare a plan for mass transit services with persons, ~~cities, counties~~ counties, cities,
46 agencies, authorities, or transportation commissions and contract with any such person or ~~other~~
47 entity to provide necessary facilities, equipment, operations and maintenance, access, and
48 insurance pursuant to such plan;

49 6. Adopt, amend, or repeal bylaws, rules, and regulations, not inconsistent with this
50 chapter or the general laws of the Commonwealth, for the regulation of its affairs and the
51 conduct of its business and ~~to~~ carry into effect its powers and purposes;

52 7. Adopt an official seal and alter ~~the same at pleasure~~ it;

53 8. Maintain an office at such place or places as it designates;

54 9. Sue and be sued;

55 10. Determine and set fees, rates, and charges for transit services;

56 11. Establish retirement, group life insurance, and group accident and sickness insurance
57 plans or systems for its employees in the same manner as localities are permitted under §§ 51.1-
58 801 and 51.1-802;

59 12. Provide by resolution for the issuance of revenue bonds of the Authority for the
60 purpose of paying the whole or any part of the cost of operating any transit system. Revenue
61 bonds issued under the provisions of this chapter shall not constitute a pledge of the faith and
62 credit of the Commonwealth or of any political subdivision. All bonds shall contain a statement
63 on their face substantially to the effect that neither the faith and credit of the Commonwealth nor
64 the faith and credit of any political subdivision are pledged to the payment of the principal of or
65 the interest on the bonds. The issuance of revenue bonds under the provisions of this chapter
66 shall ~~not~~ neither directly ~~or~~ nor indirectly ~~or~~ nor contingently obligate the Commonwealth or
67 any political subdivision to levy ~~any~~ taxes or to make any appropriation for their payment
68 except from the funds pledged under the provisions of this chapter;

69 13. Appoint, employ, or engage such officers, employees, architects, engineers,
70 attorneys, accountants, financial advisors, investment bankers, and other advisors, consultants,
71 and agents as may be necessary or appropriate, and ~~to~~ pay compensation and fix their duties;
72 and

73 14. Contract with any participating political subdivision for such subdivision to provide
74 legal services, engineering services, and depository and accounting services, including an
75 annual independent audit, and procurement of goods and services; and ~~to~~ act as fiscal agent for
76 the Authority.

77 **Drafting note: Technical changes.**

78 § ~~15.2-7025~~ 33.2-XXX. Counties and cities initially embraced by the Authority.

79 The Authority shall initially embrace the City of Charlottesville and all or such portions
80 of the County of Albemarle as its governing body desires to have included. The City of

81 Charlottesville and the County of Albemarle shall be the initial members of the Authority upon
82 adoption of an approving ordinance or resolution by each of their respective governing bodies.

83 **Drafting note: No changes.**

84 § ~~15.2-7026~~ 33.2-XXX. Joinder of other counties, agencies, institutions, and facilities.

85 The Counties of Fluvanna, Greene, Louisa, and Nelson may join the Authority, and the
86 Authority shall embrace all or such portions as the ~~counties' governing bodies desire governing~~
87 body of each county desires to have covered. Additionally, private nonprofit tourist-driven
88 agencies, higher education facilities of the Charlottesville-Albemarle area, and public
89 transportation agencies serving ~~the aforementioned such~~ counties may join the Authority. ~~Such~~
90 ~~counties, agencies, institutions, and facilities' governing bodies~~ The governing body of any
91 county, agency, institution, or facility wishing to join the Authority and the governing bodies of
92 the localities, agencies, institutions, and facilities then members of the Authority shall by
93 concurrent resolution or ordinance or by agreement provide for the joinder of such county,
94 agency, institution, ~~and/or or~~ facility.

95 **Drafting note: Technical changes are made consistent with the 2012**
96 **recommendation of the Virginia Code Commission that "and/or" no longer be placed in**
97 **the Code.**

98 § ~~15.2-7027~~ 33.2-XXX. Governance of Authority; composition; terms.

99 The Authority shall be governed by a ~~Board of Directors~~ board of directors, ~~hereinafter~~
100 ~~known~~ for purposes of this chapter referred to as the "Authority Board," which shall consist of
101 the following:

102 1. Two directors representing the County of Albemarle, each of whom shall be a
103 member of the governing body of the county;

104 2. Two directors representing the City of Charlottesville, each of whom shall be a
105 member of the governing body of the city;

106 3. One director representing each county that joins the Authority pursuant to § ~~15.2-7026~~
107 ~~33.2-XXX~~, each of whom shall be a member of the governing body of each respective county;
108 and

109 4. Up to four additional directors, who shall be nonvoting, representing the interests of
110 such agencies, institutions, and facilities described in § ~~15.2-7026~~ ~~33.2-XXX~~ that join the
111 Authority.

112 All members of the Authority shall serve terms coincident with their terms of office.
113 Vacancies shall be filled in the same manner as the original appointments.

114 The Authority shall appoint a chair and vice-chair from among its members.

115 **Drafting note: Technical changes.**

116 § ~~15.2-7028~~ ~~33.2-XXX~~. Staff.

117 The Authority shall employ an executive director and such staff as it shall determine to
118 be necessary to carry out its duties and responsibilities under this chapter. No such person shall
119 contemporaneously serve as a director of the Authority Board. The ~~Virginia~~ Department of
120 Transportation and the ~~Virginia~~ Department of Rail and Public Transportation shall make their
121 employees available to assist the Authority, upon request.

122 **Drafting note: Technical changes.**

123 § ~~15.2-7029~~ ~~33.2-XXX~~. Decisions of Authority.

124 A majority of the Authority Board shall constitute a quorum. Decisions of the Authority
125 Board shall require a quorum and shall be in accordance with voting procedures established by
126 the Authority.

127 **Drafting note: No changes.**

128 § ~~15.2-7030~~ ~~33.2-XXX~~. Allocation of certain Authority expenses.

129 The administrative expenses of the Authority, as provided in an annual budget adopted
130 by the Authority, to the extent funds for such expenses are not provided from other sources,
131 shall be allocated among the participating counties, city, agencies, institutions, and facilities
132 pursuant to a funding formula as duly adopted by the Authority.

133 **Drafting note: No changes.**

134 § ~~15.2-7031~~ 33.2-XXX. Payment to directors of the Authority Board.

135 The directors of the Authority Board may be paid for their services in either (i) the
136 amount provided in the general appropriation act for members of the General Assembly engaged
137 in legislative business between sessions or (ii) a lesser amount as determined by the Authority.
138 Directors of the Authority Board may be reimbursed for all reasonable and necessary expenses
139 as provided in §§ 2.2-2813 and 2.2-2825, if approved by the Authority. Funding for the costs of
140 compensation and expenses of the directors of the Authority Board shall be provided by the
141 Authority.

142 **Drafting note: No changes.**

143 § ~~15.2-7032~~ 33.2-XXX. Formation of advisory committees.

144 The Authority may, in its discretion, form advisory committees to assist the Authority.

145 **Drafting note: No changes.**

146 § ~~15.2-7033~~ 33.2-XXX. Other duties and responsibilities of Authority.

147 In addition to other powers ~~herein~~ granted in this chapter, the Authority shall have the
148 following duties and responsibilities:

149 1. ~~General~~ Providing general oversight of Charlottesville-Albemarle area programs
150 involving mass transit or congestion mitigation;

151 2. ~~Long-range~~ Providing long-range transit planning in the Charlottesville-Albemarle
152 area, both financially constrained and unconstrained;

153 3. Recommending to federal, state, and regional, ~~and federal~~ agencies regional transit
154 priorities, including public-private transit projects and funding allocations;

155 4. Allocating to priority regional transit projects ~~any~~ funds made available to the
156 Authority and, at the discretion of the Authority, directly overseeing such projects;

157 5. Recommending to the Commonwealth Transportation Board priority regional transit
158 projects for receipt of federal and state funds;

159 6. Serving as an advocate for the transit needs of the Charlottesville-Albemarle area
160 before the ~~state and~~ federal and state governments; and

161 7. Applying to and negotiating with the government of the United States, the
162 Commonwealth ~~of Virginia~~, or any agency or instrumentality thereof, for grants and ~~any~~ other
163 funds available to carry out the purposes of this chapter and receiving, holding, accepting, and
164 administering from any source gifts, bequests, grants, aid, or contributions of money, property,
165 labor, or other things of value to be held, used, and applied to carry out the purposes of this
166 chapter subject, however, to any ~~conditions~~ condition upon which gifts, bequests, grants, aid, or
167 contributions are made. Unless otherwise restricted by the terms of the gift, bequest, or grant,
168 the Authority may sell, exchange, or otherwise dispose of such money, securities, or other
169 property given or bequeathed to it in furtherance of its purposes.

170 **Drafting note: Technical changes.**

171 § ~~15.2-7034~~ 33.2-XXX. Withdrawal from the Authority.

172 A member of the Authority may withdraw from the participation in and the obligations
173 of the Authority by a resolution or an ordinance of its governing body, and pursuant to such
174 conditions and procedures adopted by the Authority. However, if the Authority has ~~any~~
175 outstanding bonds or other debt, no member may withdraw from the Authority without the
176 unanimous consent of all the holders of such bonds unless such bonds have been paid or cashed
177 or United States government obligations have been deposited for their payment.

178 **Drafting note: Technical changes.**

179 § ~~15.2-7035~~ 33.2-XXX. Dissolution of the Authority.

180 Whenever the Authority Board by resolution determines that the purposes for which the
181 Authority was formed have been substantially complied with and all bonds ~~theretofore~~ issued
182 and all obligations ~~theretofore~~ incurred by the Authority have been fully paid or adequate
183 provisions have been made for the payment, the Authority Board shall execute and file for
184 record with the participating localities, agencies, institutions, and facilities a resolution declaring
185 such facts and providing for the disposition of the Authority assets, consistent with applicable

186 state and federal law. If the participating localities, agencies, institutions, and facilities are of the
187 opinion that the facts stated in the Authority's resolution are true and the Authority should be
188 dissolved, they shall so resolve and the Authority shall stand dissolved as of the date on which
189 the last participating locality, agency, institution ~~and/or, or~~ facility adopts such resolution.

190 **Drafting note: Technical changes are made consistent with the 2012**
191 **recommendation of the Virginia Code Commission that "and/or" no longer be placed in**
192 **the Code.**

1 CHAPTER ~~70~~ .

2 RICHMOND METROPOLITAN AUTHORITY.

3 **Drafting note: Existing Chapter 70 (§ 15.2-7000 et seq.) of Title 15.2, the Richmond**
4 **Metropolitan Authority, is relocated as Chapter of proposed Title 33.2 in order to keep**
5 **all local and regional transportation entities together.**

6 § ~~15.2-7000~~ 33.2-XXX. Definitions.

7 ~~The following words and phrases when As used in this chapter shall, for the purposes of~~
8 ~~this chapter, have the meanings respectively ascribed to them in this section, except in those~~
9 ~~instances where, unless the context ~~clearly indicates~~ requires a different meaning:~~

10 "Authority" means the Richmond Metropolitan Authority created by § ~~15.2-7001~~ 33.2-
11 XXX, or if the Authority is abolished, the board, body, commission, or agency succeeding to the
12 principal functions thereof or on whom the powers given by this chapter to the Authority are
13 conferred by law, but shall not include the City of Richmond or the Counties of Chesterfield and
14 Henrico.

15 "Authority facility" means ~~any or~~ all facilities purchased, constructed, or otherwise
16 acquired by the Authority pursuant to the provisions of this chapter; and all extensions; and
17 improvements thereof.

18 "Bonds" or "revenue bonds" means revenue bonds or revenue refunding bonds of the
19 Authority issued under the provisions of this chapter.

20 "Cost," as applied to any project ~~shall include,~~ includes the cost of construction,
21 landscaping, and conservation; the cost of acquisition of all land, rights-of-way, property, rights,
22 easements, and interests acquired by the Authority for such construction, landscaping, and
23 conservation; the cost of demolishing or removing ~~any~~ buildings or structures on land so
24 acquired, including the cost of acquiring ~~any~~ lands to which such buildings or structures may be
25 moved; the cost of all machinery and equipment; the cost of financing charges and interest prior
26 to and during construction and for a period of time after completion of construction as deemed
27 advisable by the Authority; the cost of traffic estimates and of engineering and legal services,

28 | plans, specifications, surveys, estimates of cost and of revenues, and other expenses necessary
29 | or incident to determining the feasibility or practicability of constructing the project; the cost of
30 | administrative expenses; and the cost of payments to the ~~Virginia~~ Department ~~of Transportation~~
31 | or others for services during the period of construction, initial working capital, debt service
32 | reserves, and such other expenses as may be necessary or incident to the construction of the
33 | project, the financing of such construction, and the placing of the project in operation. Any
34 | obligation or expense incurred by the Commonwealth Transportation Board or by the City of
35 | Richmond, or the County of Henrico or Chesterfield, before or after the effective date of this
36 | chapter, for surveys, engineering, borings, plans and specifications, legal and other professional
37 | and technical services, reports, studies, and data in connection with the construction of a project
38 | shall be repaid or reimbursed by the Authority and the amounts thereof shall be included as a
39 | part of the cost of the project.

40 | "Limited access highway" means a highway ~~especially~~ especially designed for through
41 | traffic over or to which owners or occupants of abutting property or other persons have no
42 | easement of or right to light, air, view, or access by reason of the fact that their property abuts
43 | upon such highway, and access to which highway is controlled by the Authority, the
44 | Commonwealth, the City of Richmond ~~or~~, the County of Henrico, or the County of Chesterfield
45 | so as to give preference to through traffic by providing access connections with selected public
46 | ~~roads~~ highways only and by prohibiting crossings at grade or direct private driveway
47 | connections.

48 | "Owner" includes all individuals, partnerships, associations, organizations, and
49 | corporations, the City of Richmond, the County of Henrico, the County of Chesterfield, and all
50 | public agencies and instrumentalities having any title to or interest in ~~any~~ property, rights,
51 | easements, and interests authorized to be acquired by this chapter.

52 | "Project" means any single facility constituting an Authority facility, as described in the
53 | resolution or trust agreement providing for ~~the its~~ construction ~~thereof~~, including extensions and
54 | improvements thereof.

55 "Public highways" shall include public highways, roads, and streets, whether maintained
56 by the Commonwealth or the City of Richmond or the County of Henrico or Chesterfield.

57 "Revenues" means ~~any or~~ all fees, tolls, rents, rates, receipts, moneys, and income
58 derived by the Authority through the ownership and operation of Authority facilities, and ~~shall~~
59 ~~include any~~ includes all cash contributions made to the Authority by the Commonwealth or any
60 agency or department thereof, the City of Richmond, and the Counties of Henrico and
61 Chesterfield not specifically dedicated by the contributor for a capital improvement.

62 **Drafting note: Technical changes.**

63 § ~~15.2-7001~~ 33.2-XXX. Creation of the Richmond Metropolitan Authority.

64 There is hereby created a political subdivision and public body corporate and politic of
65 the Commonwealth ~~of Virginia~~ to be known as the Richmond Metropolitan Authority; to be
66 governed by a ~~Board of Directors~~ board of directors consisting of 11 members appointed as
67 follows: one member to be appointed by the Board of Supervisors of Chesterfield County for a
68 period of two years from the date of appointment; one member to be appointed by the Board of
69 Supervisors of Chesterfield County for a term of four years from the date of appointment; one
70 member to be appointed by the Board of Supervisors of Henrico County for a period of two
71 years from the date of appointment; one member to be appointed by the Board of Supervisors of
72 Henrico County for a term of four years from the date of appointment; three members to be
73 appointed by the Mayor of the City of Richmond with the approval of the City Council of the
74 City of Richmond for terms of two years from the date of appointment; three members to be
75 appointed by the Mayor of the City of Richmond with the approval of the City Council of the
76 City of Richmond for a term of four years from the date of appointment; and one ~~ex-officio~~ ex
77 officio member from the Commonwealth Transportation Board to be appointed by the
78 Commissioner of Highways; ~~and thereafter.~~ After initial appointments, the appointive members
79 of the ~~Board~~ board of directors shall be appointed for terms of four years and until their
80 successors have been appointed and are qualified. Vacancies in the membership of the ~~Board~~
81 board of directors shall be filled in the same manner as the original appointment, for the

82 unexpired portion of the term. The ~~Board~~ board of directors so appointed shall enter upon the
83 performance of its duties and shall initially and annually ~~thereafter~~ elect ~~one of its members as~~
84 ~~Chairman~~ a chairman and ~~another as Vice-Chairman,~~ a vice-chairman from its membership and
85 shall also elect annually a ~~Secretary~~ secretary or ~~Secretary-Treasurer~~ secretary-treasurer who
86 need not be a member of the ~~Board~~ board of directors. The ~~Chairman~~ chairman, or in his
87 absence the ~~Vice-Chairman~~ vice-chairman, shall preside at all meetings of the ~~Board~~ board of
88 directors, and in the absence of both the ~~Chairman~~ chairman and ~~Vice-Chairman~~ vice-chairman,
89 the ~~Board~~ board of directors shall elect a ~~Chairman~~ chairman pro tempore who shall preside at
90 such meetings. Six ~~Directors~~ directors shall constitute a quorum, and all action by the ~~Board~~
91 board of directors shall require the affirmative vote of a majority of the ~~Directors~~ directors
92 present and voting. The members of the ~~Board~~ board of directors shall be entitled to
93 reimbursement for expenses incurred in attendance upon meetings of the ~~Board~~ board of
94 directors or while otherwise engaged in the discharge of their duties, and each member shall
95 also be paid the sum of \$50 per day for each day or portion thereof during which he is engaged
96 in the performance of his duties. Such expenses and compensation shall be paid out of the
97 treasury of the Authority in such manner as shall be prescribed by the Authority.

98 **Drafting note: Technical changes.**

99 § ~~15.2-7002~~ 33.2-XXX. Powers of the Richmond Metropolitan Authority.

100 In order to alleviate highway congestion, promote highway safety, expand highway
101 construction, increase the utility and benefits, and extend the services of public highways,
102 including bridges, tunnels, and other highway facilities, both free and toll, and otherwise
103 contribute to the economy, industrial and agricultural development, and welfare of the
104 Commonwealth and the City of Richmond and the Counties of Henrico and Chesterfield, the
105 Authority shall have the following powers:

- 106 1. To contract and be contracted with; to sue and be sued; and to adopt ~~and~~, use, and
107 alter at its pleasure a seal ~~and to alter the same at its pleasure it~~;
- 108 2. To acquire and hold real or personal property necessary or convenient for its purposes;

109 3. To sell, lease, or otherwise dispose of ~~any~~ personal or real property or rights,
110 easements, or estates therein deemed by the Authority not necessary for its purposes;

111 4. To purchase, construct, or otherwise acquire, maintain, repair, and operate, or cause to
112 be repaired, maintained, and operated, limited access highways within the corporate limits of the
113 City of Richmond and the Counties of Chesterfield and Henrico, including all bridges, tunnels,
114 overpasses, underpasses, grade separations, interchanges, entrance plazas, approaches,
115 tollhouses, and administration, storage, and other buildings and facilities that the Authority may
116 deem necessary or convenient for the operation of such limited access highways. Title to any
117 property acquired by the Authority shall be taken in the name of the Authority;

118 5. With the approval of the City Council of the City of Richmond and the Boards of
119 Supervisors of the Counties of Henrico and Chesterfield, to own, operate, maintain, and provide
120 rapid and other transit facilities and services for the transportation of the public, ~~and~~ to enter
121 into contracts with ~~said the~~ the City and the County or Counties and ~~any~~ public service corporations
122 doing business as common carriers of passengers and property for the use of Authority facilities
123 for such purpose; to enter into contracts for the transportation of passengers and property over
124 facilities ~~of jurisdictions~~ other than those controlled by the Authority, as well as the property
125 and facilities of the Authority; and to construct, acquire, operate, and maintain ~~any~~ other
126 properties and facilities, including such offices and commercial facilities in connection
127 therewith as are deemed necessary or convenient by the Authority, for the relief of traffic
128 congestion, ~~or~~ to provide vehicular parking, ~~or~~ to promote transportation of persons and
129 property, or to promote the flow of commerce that the City Council of the City of Richmond
130 and the Boards of Supervisors of the Counties of Chesterfield and Henrico may request the
131 Authority to provide;

132 6. With the approval of the City Council of the City of Richmond and the Boards of
133 Supervisors of the Counties of Henrico and Chesterfield, to acquire land; to construct, own, and
134 operate sports facilities of any nature, including facilities reasonably related thereto ~~and~~; to own
135 a baseball stadium of sufficient seating capacity and quality for the playing of baseball at the

136 level immediately below Major League Baseball; and to lease such land, stadium, sports
137 facilities, and attendant facilities under such terms and conditions as the Authority may
138 prescribe. In the event of a conflict between the provisions of this subdivision and any bond
139 indenture to which the Authority is subject, the provisions of the bond indenture shall be
140 controlling;

141 7. To acquire by the exercise of the power of eminent domain ~~any~~ lands, property, rights,
142 rights-of-way, franchises, easements, and other property, including public lands, parks,
143 playgrounds, reservations, highways, or parkways, or parts thereof or rights therein, of any
144 person, copartnership, association, railroad, public service, public utility, or other corporation,
145 or of any municipality, county, or other political subdivision, deemed necessary or convenient
146 for the construction or the efficient operation of ~~the~~ a project or necessary in the restoration,
147 replacement, or relocation of public or private property damaged or destroyed, whenever a
148 reasonable price cannot be agreed upon with the governing body of such municipality, county,
149 or other political subdivision as to such property owned by it, or whenever the Authority cannot
150 agree on the terms of purchase or settlement with the other ~~owner or~~ owners because of the
151 incapacity of such ~~owner or~~ owners, because of the inability to agree on the compensation to
152 be paid or other terms of settlement or purchase, or because such ~~owner or~~ owners are
153 nonresidents of the Commonwealth, ~~or~~ are unknown, or are unable to convey valid title to such
154 property. Such proceedings shall be in accordance with and subject to the provisions of ~~any and~~
155 all laws of the Commonwealth applicable to the exercise of the power of eminent domain in the
156 name of the Commissioner of Highways and subject to the provisions of § 25.1-102 as fully as
157 if the Authority were a corporation possessing the power of eminent domain; ~~however, title,~~
158 Title to any property condemned by the Authority shall immediately vest in the Authority, and
159 the Authority shall be entitled to the immediate possession of such property upon the deposit
160 with the clerk of the court in which such condemnation proceedings are originated, of the total
161 amount of the appraised price of the property and court costs and fees as provided by ~~said laws~~
162 law, notwithstanding that any of the parties to such proceedings shall appeal from any decision

163 in such condemnation proceeding. Whenever the Authority makes such deposit in connection
164 with any condemnation proceeding, the making of such deposit shall not preclude the Authority
165 from appealing any decision rendered in such proceedings. Upon the deposit with the clerk of
166 the court of the appraised price, any person entitled thereto may, upon petition to the court, be
167 paid his or their pro rata share of 90 percent of such appraised price. The acceptance of such
168 payment shall not preclude such person from appealing any decision rendered in such
169 proceedings. If the appraisal is greater or less than the amount finally determined by the
170 decision in such proceeding or by an appeal, the amount of the increase or decrease shall be paid
171 by or refunded to the Authority.

172 The terms "appraised price" and "appraisal" as used in this subdivision mean the
173 value determined by two competent real estate appraisers appointed by the Authority for such
174 purposes.

175 The acquisition of any such property by condemnation or by the exercise of the power of
176 eminent domain shall be and is hereby declared to be a public use of such property;

177 8. To determine the location of ~~any~~ all limited access highways constructed or acquired
178 by the Authority, subject to the approval of the Commonwealth Transportation Board, and to
179 determine the design standards and materials of construction of such highways;

180 9. To designate, with the approval of the Commonwealth Transportation Board, the
181 location in the City of Richmond and in the Counties of Henrico and Chesterfield, ~~and~~ establish,
182 limit, and control ~~such~~ points of ingress to and egress from any limited access highway
183 constructed by the Authority within the corporate limits of ~~said the~~ the City of Richmond and the
184 Counties of Henrico and Chesterfield as may be necessary or desirable in the judgment of the
185 Authority to insure the proper operation and maintenance of such highway; to prohibit entrance
186 to and exit from such highway from any point ~~or points~~ not so designated; and to construct,
187 maintain, repair, and operate service roads connecting with points of ingress to and egress from
188 such highway at such locations in the City of Richmond and in the Counties of Henrico and
189 Chesterfield as may be designated by the Authority;

190 10. To make and enter into all contracts and agreements necessary or incidental to the
191 performance of its duties and the execution of its powers under this chapter, including contracts
192 or agreements authorized by this chapter with the Commonwealth Transportation Board, the
193 City of Richmond, and the Counties of Henrico and Chesterfield;

194 11. To construct grade separations at intersections of any limited access highway
195 constructed by the Authority with public highways, ~~streets~~ or other public ways or places; and to
196 change and adjust the lines and grades thereof so as to accommodate the same to the design of
197 the grade separation; ~~the.~~ The cost of such grade separations and any damage incurred in
198 changing and adjusting the lines and grades of such highways, streets, ways, and places shall be
199 ascertained and paid by the Authority as a part of the cost of such highway;

200 12. To vacate or change the location of any portion of any public highway, ~~street~~ or
201 other public way or place, public utility, sewer, pipe, main, conduit, cable, wire, tower, pole, and
202 other equipment and appliance of the Commonwealth, of the City of Richmond, or of the
203 Counties of Henrico and Chesterfield, and to reconstruct the same in such new location as shall
204 be designated by the Authority; and be of substantially the same type and in as good condition
205 as the original highway, street, way, place, public utility, sewer, pipe, main, conduit, cable, wire,
206 tower, pole, equipment, or appliance; with the cost of such reconstruction and any damage
207 incurred in vacating or changing the location thereof ~~shall be~~ ascertained and paid by the
208 Authority as a part of the cost of the project in connection with ~~which~~ such expenditures ~~were~~
209 ~~made; and any.~~ Any public highway, street, or other public way or place vacated or relocated by
210 the Authority shall be vacated or relocated in the manner provided by law for the vacation or
211 relocation of public ~~roads~~ highways, and any damages awarded on account thereof shall be paid
212 by the Authority as a part of the cost of ~~said the~~ project;

213 13. To enter upon ~~any~~ lands, waters, and premises for the purpose of making such
214 surveys, soundings, borings, and examinations as the Authority may deem necessary or
215 convenient for its purposes, ~~and such.~~ Such entry shall not be deemed a trespass, nor shall an
216 entry for such purposes be deemed an entry under any condemnation ~~proceedings~~ proceeding;

217 however, the Authority shall pay any actual damage resulting to such lands, water, and premises
218 as a result of such entry and activities;

219 14. To operate or permit the operation of vehicles for the transportation of persons or
220 property for compensation on any limited access highway constructed or acquired by the
221 Authority, provided that the Department of Motor Vehicles or the Federal Motor Carrier Safety
222 Administration shall not be divested of jurisdiction to authorize or regulate the operation of such
223 carriers;

224 15. To establish reasonable regulations for the installation, construction, maintenance,
225 repair, renewal, relocation, and removal of pipes, mains, sewers, conduits, cables, wires, towers,
226 poles, and other equipment and appliances (~~herein referred to as~~ public utility facilities) of the
227 City of Richmond and the Counties of Henrico and Chesterfield and of public utility and public
228 service corporations and of any person, firm, or other corporation rendering similar services,
229 owning or operating public utility facilities in, on, along, over, or under highways constructed
230 by the Authority; ~~and whenever.~~ Whenever the Authority shall determine that it is necessary that
231 any public utility facilities should be relocated or removed, the Authority may relocate or
232 remove the public utility facilities in accordance with the regulations of the Authority; and the
233 cost and expense of such relocation or removal, including the cost of installing the public utility
234 facilities in a new location or locations and the cost of ~~any~~ lands or ~~any~~ rights or interests in
235 lands and ~~any~~ other rights acquired to accomplish such relocation or removal, shall be paid by
236 the Authority as a part of the cost of such highway; ~~and the.~~ The owner or operator of the public
237 utility facilities may maintain and operate the public utility facilities with the necessary
238 appurtenances in the new location or locations for as long a period and upon the same terms and
239 conditions as it had the right to maintain and operate the public utility facilities in ~~their~~ the
240 former location ~~or locations~~;

241 16. To borrow money and issue bonds, notes, or other evidences of indebtedness for any
242 of its corporate purposes; such bonds, notes, or other evidences of indebtedness to be payable

243 solely from the revenues or other unencumbered funds available to the Authority that are
244 pledged to the payment of such bonds, notes, or other evidences of indebtedness;

245 17. To fix, charge, and collect fees, tolls, rents, rates, and other charges for the use of
246 Authority facilities and the several parts or sections thereof;

247 18. To establish rules and regulations for the use ~~of any~~ of the Authority facilities as may
248 be necessary or expedient in the interest of public safety with respect to the use of Authority
249 facilities and property under the control of the Authority;

250 19. To employ consulting engineers, attorneys, accountants, construction and financial
251 experts, superintendents, managers, trustees, depositaries, paying agents, and such other
252 employees and agents as may be necessary in the discretion of the Authority to construct,
253 acquire, maintain, and operate Authority facilities, and to fix their compensation;

254 20. To receive and accept from any federal agency for or in aid of the construction of
255 any Authority facility or for or in aid of any Authority undertaking authorized by this chapter,
256 and to receive and accept from the Commonwealth, the City of Richmond, or the Counties of
257 Henrico and Chesterfield and from ~~any~~ other ~~source~~ sources, grants, contributions, or other aid
258 in such construction or undertaking, or for operation and maintenance, either in money,
259 property, labor, materials, or other things of value; and

260 21. To do all other acts and things necessary or convenient to carry out the powers
261 expressly granted in this chapter.

262 **Drafting note: Technical changes.**

263 § ~~15.2-7003~~ 33.2-XXX. Issuance of revenue bonds.

264 The Authority is hereby authorized to provide by resolution for the issuance from time to
265 time of revenue bonds of the Authority for the purpose of paying all or any part of the cost of
266 Authority facilities or any project or portion of such facilities. The principal of and interest on
267 such bonds shall be payable solely from the revenues pledged for such payment. The bonds of
268 each issue or series shall be dated, shall bear interest at such rate or rates not exceeding six
269 percent per year, shall mature at such time or times not exceeding 50 years from the date or

270 dates thereof, as may be determined by the Authority, and may contain provisions reserving the
271 right of the Authority to redeem such bonds before maturity at such price or prices and upon
272 such terms and conditions as may be fixed by the Authority in the resolution authorizing such
273 bonds. Such bonds may be issued in coupon-~~or form~~, registered form₂, or both as prescribed by
274 the Authority, and provisions may be made for the registration of coupon bonds as to principal
275 only or as to both principal and interest and for the reconversion of registered bonds into coupon
276 bonds. Such bonds may be issued in any denomination or denominations and may be made
277 payable at any bank or trust company within or without the Commonwealth as the Authority
278 may determine. Such bonds and the coupons attached to coupon bonds shall be signed in such
279 manner either manually or by facsimile signature₂, as shall be determined by the Authority, and
280 sealed with the seal of the Authority or a facsimile thereof. In case any officer whose signature
281 or facsimile thereof shall appear on ~~any bonds or coupons~~ any bond or coupon shall cease to be
282 such officer before the delivery of such bonds, such signature or such facsimile signature shall
283 nevertheless be valid and sufficient for all purposes, the same as if such officer or officers had
284 remained in office until the delivery thereof. The Authority may sell such bonds in such manner
285 either at public or private sale and for such price or prices as the Authority may determine, but
286 no such sale shall be made at a price so low as to require the payment of interest on the money
287 received therefor at more than six percent per year, computed with relation to the absolute
288 maturity of the bonds in accordance with standard tables of bond values, excluding, ~~however,~~
289 from such computation the amount of any premium to be paid on the redemption of any ~~bonds~~
290 bond prior to maturity. Prior to the preparation of definitive bonds, the Authority may, under
291 like restrictions, issue interim receipts or temporary bonds, with or without coupons,
292 exchangeable for definitive bonds when such bonds shall have been executed and are available
293 for delivery. The Authority may also provide for the replacement of any ~~bonds~~ bond that shall
294 have become mutilated, destroyed, or lost.

295 **Drafting note: Technical changes.**

296 § ~~15.2-7004~~ 33.2-XXX. Rates and charges.

297 Whenever the Authority has constructed or otherwise acquired Authority facilities and
298 has issued bonds for such purpose, the Authority shall fix, revise, charge, and collect fees, tolls,
299 rents, rates, and other charges for the use of such facilities and the different parts or sections
300 thereof, sufficient, together with ~~any~~ all other moneys made available and used for that purpose,
301 to pay the principal of and interest on such bonds, together with reserves for such purposes, and
302 to maintain and operate such facilities and to keep the same in good condition and repair. Such
303 fees, tolls, rents, rates, and other charges shall not be subject to supervision or regulation by any
304 commission, board, bureau, or agency of the Commonwealth or of any municipality, county, or
305 other political subdivision of the Commonwealth, and all revenues, when collected, and the
306 proceeds from the sale of revenue bonds, shall be held by the Authority in trust for the benefit of
307 the holders of bonds of the Authority issued for the construction or acquisition of Authority
308 facilities and for ~~the proper~~ properly maintaining, operating, and repairing the Authority
309 facilities.

310 Revenue bonds issued under the provisions of this chapter shall not be deemed to
311 constitute a debt of the Commonwealth, the City of Richmond, the County of Henrico, or the
312 County of Chesterfield or a pledge of the faith and credit of the Commonwealth, the City of
313 Richmond, ~~or of~~ the County of Henrico, or the County of Chesterfield; and shall be payable
314 solely from the funds provided therefor from revenues.

315 **Drafting note: Technical changes.**

316 § ~~15.2-7005~~ 33.2-XXX. Use of state highway maintenance and construction funds for
317 Authority facilities.

318 Until all bonds of the Authority, including refunding bonds, whether heretofore or
319 hereafter issued, and the interest thereon are paid in full, the Commonwealth Transportation
320 Board may in its discretion use any part of funds available for the maintenance of state
321 highways in the construction district in which the Authority's facilities are wholly or partly
322 located; to provide for such portion of the operation, maintenance, and repair of the facilities of
323 the Authority as is deemed in the public interest; however, no part of such funds shall be used

324 for the facilities of the Authority unless the fees, tolls, rents, rates, and other charges for the use
325 thereof are not sufficient to make the required payments of principal and interest on the
326 outstanding revenue bonds issued in connection therewith, and to operate, maintain, and repair
327 the same.

328 **Drafting note: Technical changes.**

329 § ~~15.2-7006~~ 33.2-XXX. Refunding bonds.

330 The Authority is hereby authorized by resolution to provide for the issuance of refunding
331 revenue bonds with which to refund outstanding revenue bonds or any issue or series of such
332 outstanding bonds, which refunding revenue bonds may be issued at or before the maturity or
333 redemption date of the bonds to be refunded, and to include different issues or series of such
334 outstanding revenue bonds by a single issue of refunding revenue bonds, and to issue refunding
335 revenue bonds to pay any redemption premium and interest to accrue and become payable on
336 the outstanding revenue bonds being refunded to the date of payment or redemption, and to
337 establish reserves for such refunding revenue bonds. Such refunding revenue bonds shall be
338 payable solely from all or that portion of the revenues of the Authority facilities pledged to the
339 payment thereof in the bond resolution pursuant to which ~~said such~~ bonds were issued. Such
340 refunding revenue bonds may, in the discretion of the Authority, be exchanged at par for the
341 revenue bonds that are being refunded, or may be sold at public or private sale in such manner
342 and at such price ~~or prices~~ as the Authority shall deem for the best interests of the Authority, but
343 no such sale shall be made at a price so low as to require the payment of interest on the money
344 received therefor at more than six percent per year, computed with relation to the absolute
345 maturity of the bonds in accordance with standard tables of bond values, excluding, ~~however,~~
346 from such computation the amount of any premium to be paid on the redemption of any bonds
347 prior to maturity, and may be issued and delivered at any time prior to the date of redemption or
348 maturity date of the bonds to be refunded as the Authority determines to be in the best interests
349 of the Authority. The interest rate or rates on refunding revenue bonds shall not be limited by
350 the interest rate or rates borne by any of the revenue bonds to be refunded thereby. The proceeds

351 derived from the sale of refunding revenue bonds issued under this chapter shall be invested in
352 obligations of or guaranteed by the United States government pending the application of such
353 proceeds to the purpose for which such refunding revenue bonds have been issued, ~~and to.~~ To
354 further secure such refunding revenue bonds, the Authority may contract with the purchasers
355 thereof with respect to the safekeeping and application of the proceeds thereof and the
356 safekeeping and application of the earnings of such investments. The determination of the
357 Authority with respect to the financial soundness and advantage of the issuance and delivery of
358 refunding revenue bonds authorized under this chapter shall be conclusive, but nothing ~~herein~~
359 contained in this section shall require the holders of any outstanding revenue ~~bonds~~ bond being
360 refunded to accept payment thereof otherwise than as provided in ~~said the~~ outstanding bonds.

361 **Drafting note: Technical changes.**

362 § ~~15.2-7007~~ 33.2-XXX. Trust agreement.

363 In the discretion of the Authority, ~~any~~ all bonds issued under the provisions of this
364 chapter may be secured by a trust agreement or indenture by and between the Authority and a
365 corporate trustee, which may be any trust company or bank having the powers of a trust
366 company within or without the Commonwealth, to be selected by the Authority in such manner
367 as it may elect. Such trust agreement or the resolution providing for the issuance of such bonds
368 may pledge or assign all or any portion of the tolls and other revenues to be received by the
369 Authority from the ownership and operation of Authority facilities; ~~;~~ but shall not convey or
370 mortgage any Authority ~~facilities~~ facility or any part thereof. It shall be lawful for any bank or
371 trust company incorporated under the laws of the Commonwealth that may act as depository of
372 the proceeds of bonds or of revenues to furnish such indemnifying bonds or to pledge such
373 securities as may be required by the Authority. Any such resolution, trust agreement, or
374 indenture may set forth the rights and remedies of the bondholders and of the trustee; and may
375 restrict the individual right of action by bondholders. In addition to the foregoing, any such
376 resolution, trust agreement, or indenture may contain such other provisions as the Authority may
377 deem reasonable and proper for the security of the bondholders. All expenses incurred in

378 carrying out the provisions of such trust agreement or resolution may be treated as a part of the
379 cost of the operation of the Authority ~~facilities~~ facility or portion thereof.

380 All or any portion of the revenues derived from the ownership and operation of
381 Authority facilities, as may be provided for in the resolution authorizing the issuance of such
382 bonds or in the trust agreement or indenture securing ~~the same~~ such bonds, may be pledged to,
383 and charged with, the payment of the principal of and the interest on such bonds as the ~~same~~
384 payment shall become due, and the redemption price or the purchase price of bonds retired by
385 call or purchase as therein provided. Such pledge shall be valid and binding from the time when
386 the pledge is made; the revenues or other moneys so pledged and thereafter received by the
387 Authority shall immediately be subject to the lien of such pledge without any physical delivery
388 thereof or further act, and the lien of any such pledge shall be valid and binding as against all
389 parties having claims of any kind in tort, contract, or otherwise against the Authority,
390 irrespective of whether such parties have notice thereof. Neither the resolution nor any trust
391 agreement nor indenture by which a pledge is created need be filed or recorded except in the
392 records of the Authority.

393 **Drafting note: Technical changes.**

394 § ~~15.2-7008~~ 33.2-XXX. Covenants to secure bonds.

395 Any resolution authorizing the issuance of bonds of the Authority may, for the benefit
396 and security of the holders ~~from time to time~~ of such bonds, contain covenants by the Authority
397 for ~~said~~ such a purpose, including covenants as to, among other things:

- 398 1. The operation, maintenance, and repair of the Authority facilities;
- 399 2. The ~~purpose or~~ purposes to which the proceeds of the sale of such bonds may be
400 applied and the use and disposition thereof;
- 401 3. The use and disposition of the revenues of the Authority derived from the ownership
402 or operation of Authority facilities and additions, improvements, and extensions thereof,
403 including the investment thereof and the creation and maintenance of reserve funds and funds
404 for working capital and all renewals and replacements to Authority facilities;

405 4. The amount, if any, of additional revenue bonds payable from such revenues that may
406 be issued and the terms and conditions on which such additional revenue bonds may be issued;

407 5. Fixing, maintaining, collection, and deposit of fees, tolls, rents, rates, and other
408 charges for all the services sold, furnished, or supplied by the Authority facilities;

409 6. The operation, maintenance, repair, management, accounting, and auditing of the
410 Authority;

411 7. Limitations upon the right of the Authority to dispose of Authority facilities or any
412 part thereof without providing for the payment of the outstanding revenue bonds;

413 8. The appointment of trustees, depositaries, and paying agents within or without the
414 Commonwealth to receive, hold, disburse, invest, or reinvest the proceeds derived from the sale
415 of revenue bonds and all or any part of the revenues derived by the Authority from the
416 operation, ownership, and management of the Authority facilities; and

417 9. Such other covenants and agreements as may be determined necessary in the
418 discretion of the Authority to advantageously market the revenue bonds of the Authority.

419 **Drafting note: Technical changes.**

420 § ~~15.2-7009~~ 33.2-XXX. Revenue bonds eligible for investment.

421 Bonds issued by the Authority under the provisions of this chapter are hereby made
422 securities in which all public officers and public bodies of the Commonwealth and its political
423 subdivisions, and all insurance companies, trust companies, banks, banking associations,
424 investment companies, executors, administrators, trustees, and other fiduciaries may properly
425 and legally invest funds, including capital, in their control or belonging to them. Such bonds are
426 also hereby made securities that may properly and legally be deposited with and received by any
427 Commonwealth or municipal officer or any agency or political subdivision of the
428 Commonwealth for any purpose for which the deposit of bonds or obligations is now or may
429 hereafter be authorized by law.

430 **Drafting note: Technical changes.**

431 § ~~15.2-7010~~ 33.2-XXX. Authority obligations to be negotiable instruments; enforcement
432 of bonds.

433 Notwithstanding the provisions of this chapter, or any ~~provisions of the laws of the~~
434 ~~Commonwealth~~ provision of law, and any ~~recitals~~ recital in any ~~bonds~~ bond, interim ~~receipts~~
435 receipt, or any other ~~obligations~~ obligation issued under the provisions of this chapter, all such
436 bonds, interim receipts, or other obligations shall be deemed to be negotiable instruments under
437 the laws of the Commonwealth. The provisions of this chapter, and of any resolution ~~or~~
438 ~~resolutions~~ or ~~indentures~~ indenture providing for the issuance and security of ~~any~~ revenue
439 bonds, interim receipts, or other obligations issued ~~as herein set forth~~ pursuant to this chapter,
440 shall constitute a contract with the holder ~~or holders~~ of ~~any~~ such revenue bonds, interim receipts,
441 or other obligations, and the agreements and covenants of the Authority under this chapter and
442 under ~~any~~ such resolution, resolutions, or indentures shall be enforceable by any holder ~~or~~
443 ~~holders~~ of revenue bonds, interim receipts, or other obligations issued under the provisions of
444 this chapter and any representative of such holder ~~or holders~~, and any trustee appointed under
445 the bond resolution and authorized ~~so~~ to do so, may, by suit, action, injunction, mandamus, or
446 other proceeding issued by a court of competent jurisdiction, enforce ~~any and~~ all rights of such
447 holders under the laws of the Commonwealth or granted by this chapter and in any such bond
448 resolution or indenture, and may compel performance of all duties required to be performed by
449 this chapter and by such bond resolutions or indenture by the Authority or by any officer or
450 agent thereof, including the fixing, charging, and collecting of fees, tolls, rents, rates, and other
451 charges for the use of the Authority facilities.

452 **Drafting note: Technical changes.**

453 § ~~15.2-7011~~ 33.2-XXX. Exemption from taxation.

454 All property, real and personal, and all rights and interests therein and the income of the
455 Authority, the revenue bonds and the interest thereon, and the transfer thereof and any profit
456 made on the sale thereof, shall at all times be free from taxation or assessment by the
457 Commonwealth and by any municipality, county, or other political subdivision thereof.

458 **Drafting note: No changes.**

459 § ~~15.2-7012~~ 33.2-XXX. General powers of City of Richmond and Counties of Henrico
460 and Chesterfield.

461 The City of Richmond and the Counties of Henrico and Chesterfield may enter into and
462 perform contracts or agreements with the Authority providing for furnishing to the Authority
463 one or ~~more~~ any combination of the following cooperative undertakings ~~or any combination~~
464 ~~thereof~~:

465 1. The preparation, acquisition, loan, or exchange of survey, engineering, borings,
466 construction and other technical reports, studies, plans, and data;

467 2. The providing of engineering, planning and other professional and technical services,
468 labor, or other things of value;

469 3. The construction, in whole or in part, of public highways, bridges, tunnels, viaducts,
470 interchanges, connecting ~~roads~~ highways, grade crossings, and other highway facilities;

471 4. The providing of funds in lump sums or installments to assist in paying the cost of any
472 Authority facility or any Authority undertaking authorized by this chapter or the operation and
473 maintenance thereof;

474 5. The acquisition and transfer to the Authority of land, including easements, rights-of-
475 way, or other property, useful in the construction, operation, or maintenance of any Authority
476 facility;

477 6. The making of payments or contributions to the Authority for the use of or in
478 compensation for the services rendered by any Authority facility in lieu of the payment of tolls
479 or other charges therefor, and such payments and contributions shall be deemed revenues of the
480 project to the same extent as the tolls, rentals, fees, and other charges collected in the operation
481 of the project;

482 7. When requested by the Authority, ~~to vacate or change~~ the vacating or changing of the
483 location of any public highway, ~~street~~ or other public way or place, or any portion thereof,
484 public utility, sewer, pipe, main, conduit, cable, wire, tower, pole, ~~and or~~ other equipment or

485 appliance owned or controlled by or under the jurisdiction of either the City of Richmond or the
486 County of Henrico or Chesterfield, in the manner required or authorized by law conferring such
487 power on the City of Richmond or the County of Henrico or Chesterfield, and to construct the
488 same in such new location as shall be designated by the governing body of the City of
489 Richmond or the County of Henrico or Chesterfield, and the cost of vacating or changing the
490 location or reconstruction thereof and any damages resulting therefrom required to be paid by
491 the City of Richmond or County of Henrico or Chesterfield shall be reimbursed by the Authority
492 as a part of the cost of the project in connection with which such expenditures have been made;
493 and

494 8. The connection of any project of the Authority with the streets, highways, roads, and
495 other public ways in the City of Richmond and in the Counties of Henrico and Chesterfield.

496 **Drafting note: Technical changes.**

497 § ~~15.2-7013~~ 33.2-XXX. Powers of City of Richmond and Counties of Henrico and
498 Chesterfield with respect to revenue bonds issued by the Authority.

499 A. The City of Richmond and the Counties of Henrico and Chesterfield each may enter
500 into and perform from time to time contracts and agreements with the Authority to aid the
501 Authority to pay the principal of and interest on revenue bonds or revenue refunding bonds
502 issued by the Authority if, when, and as the revenues of the Authority may not be sufficient to
503 pay such principal or interest when due. No such contract or agreement shall be deemed to be
504 lending or granting credit to or in aid of any person, association, company, or corporation within
505 the meaning of Section 10 of Article X of the Constitution of Virginia; ~~nor shall any, and no~~
506 such contract or agreement shall be deemed to be a pledge of the faith and credit or of the taxing
507 power of the City of Richmond, the County of Henrico, or the County of Chesterfield for the
508 payment of such principal or interest except as may be otherwise provided in such contracts or
509 agreements. Any holder of bonds, notes, certificates, or other evidences of borrowing issued by
510 the Authority under the provisions of this chapter or of ~~any~~ coupons appertaining thereto, and
511 the representatives of such holders and the trustee under any bond resolution or indenture, may

512 either at law or in equity, by suit, action, mandamus, or other ~~proceedings~~ proceeding, protect
513 and enforce ~~any and~~ all rights of the Authority under or by virtue of any such contract or
514 agreement.

515 B. Funds to perform any such contract or agreement may be provided from time to time
516 by the City of Richmond, the County of Henrico, or the County of Chesterfield by
517 appropriations of general or specific tax revenue, or by appropriations of accumulated funds
518 allocated for public improvements generally, or allocated to the purposes of such contract or
519 agreement, or by appropriations of the proceeds from the sale of bonds, which may be issued
520 from time to time as ~~hereinafter~~ provided in this chapter.

521 C. The City of Richmond, the County of Henrico, or the County of Chesterfield, ~~or any~~
522 ~~of them~~ may issue bonds for the purpose of providing funds to perform any contract or
523 agreement entered into with the Authority pursuant to the provisions of this chapter. Such bonds
524 shall mature at such time ~~or times~~ not exceeding 40 years from their date ~~or dates~~, as may be
525 determined by the governing body of the City of Richmond, the County of Henrico, or the
526 County of Chesterfield issuing such bonds, and may be redeemable before maturity, at the
527 option of the governing body of the City of Richmond, the County of Henrico, or the County of
528 Chesterfield, at such price ~~or prices~~ and under such terms and conditions as may be prescribed
529 by such governing body prior to the issuance of the bonds. The City of Richmond, the County of
530 Henrico, and the County of Chesterfield may provide for the issuance of refunding bonds for the
531 purpose of refunding any outstanding ~~bonds~~ bond that shall have been issued pursuant to the
532 provisions of this subsection, including the payment of any redemption premium thereon, and
533 any interest accrued or to accrue to the date of redemption of such bonds.

534 D. The authority of the City of Richmond, the County of Henrico, and the County of
535 Chesterfield to contract and to issue bonds pursuant to this chapter is in addition to any existing
536 authority to contract and issue bonds, anything in the laws of ~~Virginia~~ the Commonwealth,
537 including the Charter of the City of Richmond, to the contrary notwithstanding, all of which

538 laws and Charter are hereby amended or modified so as to effectuate the powers conferred by
539 this chapter.

540 E. The governing bodies of the City of Richmond and of the Counties of Henrico and
541 Chesterfield may exercise any of the powers granted by this chapter by resolution, and all
542 proceedings of the City Council of the City of Richmond and the Boards of Supervisors of the
543 Counties of Henrico and Chesterfield authorizing the execution of such contracts ~~hereunder~~ and
544 providing for the issuance of bonds pursuant to the provisions of this chapter shall not be subject
545 to the provisions of the Charter of the City or ~~the this~~ Code ~~of Virginia~~ permitting a referendum
546 on actions taken by ~~said the City~~ Council and Boards of Supervisors except as required by the
547 Constitution of Virginia, but all such proceedings shall take effect immediately upon the
548 adoption thereof.

549 **Drafting note: Technical changes.**

550 § ~~15.2-7014~~ 33.2-XXX. Powers of the Commonwealth Transportation Board.

551 The Commonwealth Transportation Board may:

552 1. Enter into and perform contracts or agreements with the Authority to furnish it with
553 surveys, engineering, borings, plans, and specifications and other technical services, reports,
554 studies, and data, the cost of which shall be reimbursed by the Authority as a part of the cost of
555 the project in connection with which such contracts or agreements were entered into;

556 2. Allocate to and for the construction, operation, or maintenance of ~~any~~ highways
557 constructed by the Authority and pay to the Authority such funds as may be or become available
558 to the Commonwealth Transportation Board for such purposes;

559 3. Permit the connection of ~~any~~ highways constructed or acquired by the Authority with
560 highways under the control and jurisdiction of the Commonwealth Transportation Board; and

561 4. Employ independent consulting engineers having a nationwide and favorable repute in
562 estimating traffic over ~~any~~ such highways to determine whether the construction of such
563 highways will result in substantial reduction in the volume of traffic over Interstate ~~Route~~ 95
564 and ~~to~~ use funds under the control of the Commonwealth Transportation Board for that purpose.

565 **Drafting note: Technical changes.**

566 § ~~15.2-7015~~ 33.2-XXX. Acquisition of property.

567 A. The Authority may acquire, solely from funds provided under the provisions of this
568 chapter, such lands, structures, ~~property~~ properties, rights, rights-of-way, franchises, easements,
569 and other interests in lands, including lands lying under water and riparian rights, as it may
570 deem necessary or convenient for the construction and operation of Authority facilities, upon
571 such terms and at such prices as may be considered by it to be reasonable and can be agreed
572 upon between it and the owner thereof.

573 B. The City of Richmond, the Counties of Henrico and Chesterfield, the Commonwealth
574 Transportation Board, and, with the approval of the Governor, public agencies and commissions
575 of the Commonwealth, notwithstanding any contrary provision of law, may lease, lend, grant, or
576 convey to the Authority at its request upon such terms and conditions as the governing bodies of
577 the City of Richmond, the Counties of Henrico and Chesterfield, the Commonwealth
578 Transportation Board, or the proper authorities of such agencies or commissions of the
579 Commonwealth may deem reasonable and fair and without the necessity of any advertisement,
580 order of court, or other action or formality, other than the regular and formal action of the
581 governing bodies or authorities concerned, any real property that may be necessary or
582 convenient for the effectuation of the authorized purposes of the Authority, including public
583 highways and any other real property already devoted to public use.

584 C. The City of Richmond and the Counties of Henrico and Chesterfield may, subject to
585 the provisions of § 25.1-102, acquire by the exercise of the power of eminent domain granted to
586 or conferred upon them, and in accordance with the procedure prescribed therefor, any real
587 property that may be necessary or convenient for the effectuation of the authorized purposes of
588 the Authority and to lease, lend, grant, or convey such property to the Authority upon such
589 terms and conditions as the governing bodies of the City of Richmond or Counties of Henrico
590 and Chesterfield may deem reasonable and fair; the acquisition of such real property by the

591 exercise of the power of eminent domain and the disposition of same to the Authority as ~~herein~~
592 provided in this section shall be and is ~~hereby~~ declared to be for a public use of such property.

593 D. In any eminent domain proceedings by the Authority, the City of Richmond, or the
594 County of Henrico or Chesterfield under this chapter, the court having jurisdiction of the suit,
595 action, or proceeding may make such orders as may be just to the Authority, the City of
596 Richmond, or the County of Henrico or Chesterfield, ~~as the case may be~~, and to the owners of
597 the property to be condemned, and may require an undertaking or other security to secure such
598 owners against any loss or damage by reason of the failure of the Authority, the City of
599 Richmond, or the County of Henrico or Chesterfield to accept and pay for the property, or by
600 reason of the taking of property occupied by such owners, but neither such undertaking or
601 security nor any act or obligation of the Authority, the City of Richmond, or the County of
602 Henrico or Chesterfield shall impose any liability upon the Commonwealth.

603 E. If the owner, lessee, or occupier of any property to be condemned or otherwise
604 acquired pursuant to this chapter ~~shall refuse~~ refuses to remove his property therefrom or give
605 up possession thereof, the Authority, the City of Richmond, or the County of Henrico or
606 Chesterfield, ~~as the case may be~~, may proceed to obtain possession in any manner provided by
607 law.

608 F. When the Authority, the City of Richmond, or the County of Henrico or Chesterfield
609 proposes to construct a highway across the tracks of any railroad, the exercise of the general
610 power of eminent domain over the property of a railroad granted by § ~~15.2-7002~~ 33.2-XXX
611 shall be limited with respect to the property, right-of-way, facilities, works, or appurtenances
612 upon which the tracks at such proposed crossing are located, to the acquisition only of an
613 easement therein, which crossing shall be constructed either sufficiently above or below the
614 grade of any such railroad track ~~or tracks~~ so that neither the crossing then under construction nor
615 any part thereof, including any bridge abutments, columns, supporting structures, and
616 appurtenances, nor any traffic upon it shall interfere in any manner with the use, operation, or
617 maintenance of the trains, tracks, works, or appurtenances of the railroad nor interfere with or

618 endanger the movement of the trains or traffic upon the tracks of the railroad. Prior to the
619 exercise of the power of eminent domain for such an easement, plans and specifications of that
620 portion of the project to be constructed across the railroad tracks showing compliance with such
621 requirements and showing sufficient and safe plans and specifications for such overhead or
622 underground structure and appurtenances shall be submitted to the railroad for examination and
623 approval. If the railroad fails or refuses within 30 days to approve the plans and specifications so
624 submitted, the matter shall be submitted by the Authority, the City of Richmond, or the County
625 of Henrico or Chesterfield, ~~as the case may be~~, to the State Corporation Commission, whose
626 decision, arrived at after due consideration in accordance with its usual procedure, shall be final
627 as to the sufficiency and safety of such plans and specifications and as to such elevations or
628 distances above or below such tracks. The overhead or underground structures and
629 appurtenances shall be constructed in accordance with such plans and specifications and in
630 accordance with such elevations or distances above or below such tracks so approved by the
631 railroad or the State Corporation Commission, ~~as the case may be~~. A copy of the plans and
632 specifications approved by the railroad or the State Corporation Commission shall be filed as an
633 exhibit upon the institution of any ~~proceedings proceeding~~ brought in the exercise of the power
634 of eminent domain.

635 G. The Commonwealth hereby consents, subject to the approval of the Governor, to the
636 use by the Authority of ~~any all~~ other lands or property owned by the Commonwealth, including
637 lands lying under water, ~~which that~~ are deemed by the Authority to be necessary for the
638 construction or operation of any project being constructed by the Authority.

639 **Drafting note: Technical changes.**

640 § ~~15.2-7016~~ 33.2-XXX. Transfer to City of Richmond.

641 A. If the City of Richmond has rendered financial assistance or contributed in any
642 manner to the cost of construction of a limited access highway ~~or highways~~ by the Authority
643 within or partly within and partly without the corporate limits of the City of Richmond, and the
644 Authority has issued bonds for the construction of such limited access highway ~~or highways~~,

645 then, when all such bonds, including ~~any~~ refunding bonds, and the interest thereon have been
646 paid or a sufficient amount of cash or United States government securities have been deposited
647 and dedicated to the payment of all such bonds and the interest to the maturity or redemption
648 date thereof in trust for the benefit of the holders of such bonds, all property, real and personal,
649 acquired in connection with such limited access highway ~~or highways~~ within the City of
650 Richmond, shall be transferred by the Authority to ~~said the~~ City as compensation to the City for
651 the financial assistance rendered by the City to the Authority in connection with the construction
652 or acquisition of such limited access highway ~~or highways~~, and such highway ~~or highways~~ shall
653 upon the acceptance thereof by the City become a part of the street or highway system of the
654 City and shall ~~thereafter~~ be maintained and operated as a limited access highway by the City;
655 ~~and the.~~ The governing body of the City of Richmond shall have the power to fix ~~and,~~ revise
656 ~~from time to time and,~~ charge, and collect tolls for transit over such limited access highway, and
657 as compensation for other uses that may be made thereof; ~~however, the.~~ The proceeds from such
658 tolls and compensation shall be first used to reimburse the City of Richmond and the Counties
659 of Henrico and Chesterfield for ~~any~~ funds or expenditures made by each of them pursuant to
660 contracts or agreements authorized by § ~~15.2-7013, 33.2-XXX~~ for which reimbursement has not
661 been ~~theretofore~~ made, and then for the operation, maintenance, improvement, expansion, or
662 extension of such limited access highway and to increase its utility and benefits; and for the
663 construction, reconstruction, maintenance, and operation of other projects or highways
664 connected with such limited access highway or with the ~~state or federal~~ federal or state highway
665 systems, and for such purpose the City of Richmond shall succeed to all the functions and shall
666 have all the powers conferred on the Authority by this chapter.

667 B. If the Authority constructs a limited access highway project ~~or projects~~ partly within
668 and partly without the corporate limits of the City of Richmond, any extension thereof shall be
669 constructed or acquired only when approved by the unanimous vote of all members of the ~~Board~~
670 ~~of Directors~~ board of directors or by a vote of three-fourths of ~~said Directors~~ the directors and
671 approval by the City Council of the City of Richmond and the Boards of Supervisors of the

672 Counties of Henrico and Chesterfield. If the Authority has issued bonds for the purpose of
673 constructing such project or for the purpose of constructing or acquiring such extensions when
674 all such bonds, including ~~any~~ refunding bonds, and the interest thereon have been paid or a
675 sufficient amount of cash or United States government securities have been deposited and
676 dedicated to the payment thereof in trust for the benefit of ~~the holder or~~ holders of such bonds,
677 all property, real and personal, acquired in connection with such project ~~or projects~~ or extension
678 thereof not required to be transferred to the City of Richmond pursuant to subsection A shall be
679 transferred by the Authority to the political ~~subdivision or~~ subdivisions in which such property
680 is located at the time of such transfer at no cost to such political subdivisions in the event the
681 subdivisions adopt a resolution accepting such property. If not accepted by such subdivisions
682 within 30 days from the offer of the property by the Authority, then the Authority shall transfer
683 such property to the Commonwealth Transportation Board. If such property is accepted by the
684 political subdivision ~~wherein where~~ the same property is located, the governing body of such
685 subdivision shall have the power to fix ~~and~~, revise ~~from time to time and~~, charge, and collect
686 tolls for transit over such limited access highway project or extension and as compensation for
687 other uses that may be made thereof, ~~provided, however,~~ The proceeds from such tolls and
688 compensation shall be first used to reimburse the City of Richmond and the Counties of Henrico
689 and Chesterfield for ~~any~~ funds or expenditures made by each of them pursuant to contracts or
690 agreements authorized by § ~~15.2-7013~~ 33.2-XXX for which reimbursement has not been
691 ~~theretofore~~ made, and then for the operation, maintenance, improvement, expansion, or
692 extension of such limited access highway project and to increase its utility and benefits, and for
693 the construction, reconstruction, maintenance, and operation of other ~~project projects~~
694 highway highways connected with such limited access highway or with the state or federal
695 highway systems and for such purpose such political subdivisions shall succeed to all the
696 functions and shall have all the powers conferred on the Authority by this chapter with respect
697 to such property.

698 **Drafting note: Technical changes.**

699 § ~~15.2-7017~~ 33.2-XXX. Miscellaneous.

700 A. Any money set aside for the payment of the principal of or interest on ~~any~~ bonds
701 issued by the Authority not claimed within two years from the day the principal of such bonds is
702 due by maturity or by call for redemption shall be paid into the state treasury ~~of the~~
703 ~~Commonwealth~~. No interest shall accrue on such principal or interest from the day the same is
704 due ~~as aforesaid~~. The Comptroller ~~of the Commonwealth~~ shall keep an account of all money
705 thus paid into the state treasury, and it shall be paid to the individual copartnership, association,
706 or corporation entitled ~~thereto to it~~ upon satisfactory proof that such individual, copartnership,
707 association, or corporation is so entitled to such money. If the claim so presented is rejected by
708 the Comptroller, the claimant may proceed against the Comptroller for recovery in the Circuit
709 Court of the City of Richmond. An appeal from the judgment of the circuit court shall lie to the
710 Supreme Court of Virginia as in actions at law, and all laws and rules relating to practice and
711 procedure in actions at law shall apply to such authorized proceedings ~~authorized hereunder~~. No
712 such proceedings shall be filed after 10 years from the day the principal of or interest on such
713 bonds is due ~~as aforesaid; however, if~~ If the individual having such claim is an infant or insane
714 person or is imprisoned at such due date, such proceedings may be filed within five years after
715 the removal of such disability, notwithstanding the fact that such 10-year period has expired.

716 B. The Authority may contract with the City of Richmond, the Counties of Henrico and
717 Chesterfield, and the Department of State Police for the policing of ~~any or~~ all Authority
718 facilities, and the City of Richmond, the Counties of Henrico and Chesterfield, and the
719 Department of State Police are hereby authorized to enter into contracts with the Authority for
720 such purpose. Police officers providing police services pursuant to such contracts shall be under
721 the exclusive control and direction of the authority providing such officers, and shall be
722 responsible to that authority exclusively for the performance of their duties and the exercise of
723 their powers. The Authority shall reimburse the City of Richmond, the County of Henrico or
724 Chesterfield, or the Commonwealth, ~~as the case may be~~, in such amounts and at such time ~~or~~
725 ~~times~~ as shall be mutually agreed upon, for providing police service. Such officers shall be

726 responsible for the preservation of the public peace, prevention of crime, apprehension of
727 criminals, protection of the rights of persons and property, and enforcement of the laws of the
728 Commonwealth and all ~~rules and~~ regulations of the Authority made in accordance ~~herewith~~, and
729 such officers shall have all the rights and duties of police officers as provided by the general
730 laws of the Commonwealth. The violation of any such ~~rule or~~ regulation shall be punishable as
731 follows: if such a violation would have been a violation of law if committed on any public road,
732 street, or highway in the City of Richmond or the County of Henrico or Chesterfield, it shall be
733 punishable in the same manner as if it had been committed on such public ~~road, street, or~~
734 highway; otherwise it shall be punishable as a Class 1 misdemeanor. All other police officers of
735 the Commonwealth ~~and of~~, the City of Richmond, and the Counties of Henrico and Chesterfield
736 shall have the same powers and jurisdiction within the areas of operations agreed upon by the
737 parties that they have beyond such limits and shall have access to all such areas at ~~any and~~ all
738 times without interference for the purpose of exercising such powers and jurisdiction. For the
739 purpose of enforcing such laws, ~~rules~~, and regulations, the court ~~or courts~~ having jurisdiction for
740 the trial of criminal offenses committed in the City of Richmond or in the Counties of Henrico
741 and Chesterfield within whose boundaries any crime is committed shall have jurisdiction to try
742 any person charged with the violation of ~~any~~ such laws, ~~rules~~, and regulations within such
743 boundaries. A copy of the ~~rules and~~ regulations of the Authority, attested by the ~~Secretary~~
744 secretary or ~~Secretary-Treasurer~~ secretary-treasurer of the Authority, may be admitted as
745 evidence in lieu of the original. Any such copy purporting to be sealed and signed by such
746 ~~Secretary~~ secretary or ~~Secretary-Treasurer~~ secretary-treasurer may be admitted as evidence
747 without any proof of the seal or signature, or of the official character of the person whose name
748 is signed to it.

749 C. All actions at law and suits in equity and other proceedings, actions, and suits against
750 the Authority, or any other person, firm, or corporation, growing out of the construction,
751 maintenance, repair, operation, and use of any Authority facility, or growing out of ~~any~~ other
752 circumstances, events, or causes in connection therewith, unless otherwise provided ~~herein in~~

753 this section, shall be brought and conducted in the court ~~or courts~~ having jurisdiction of such
754 actions, suits, and proceedings in the City of Richmond or the County of Henrico or Chesterfield
755 within whose boundaries the causes of such actions, suits, and proceedings arise, and
756 jurisdiction is hereby conferred on such court ~~or courts~~ for that purpose. All such actions, suits,
757 and proceedings on behalf of the Authority shall be brought and conducted in the Circuit Court
758 of the City of Richmond, except as ~~herein~~ otherwise provided in this section, and exclusive
759 jurisdiction is hereby conferred on such court for the purpose. Eminent domain proceedings
760 instituted and conducted by the Authority shall be brought and conducted in the court ~~or courts~~
761 having jurisdiction of such proceedings in the City of Richmond or the ~~Counties~~ County of
762 Henrico ~~and or~~ Chesterfield within whose boundaries the land or other property to be so
763 acquired or the major portion thereof is situated, and jurisdiction is hereby conferred on such
764 ~~courts~~ court for such purpose.

765 D. On or before ~~the 30th day of~~ September ~~in~~ 30 of each year, the Authority shall
766 prepare a report of its activities for the 12-month period ending the preceding July 1 of such
767 year and shall file a copy ~~thereof~~ with the Commonwealth Transportation Board, the City of
768 Richmond, and the Counties of Henrico and Chesterfield. Each such report shall set forth an
769 operating and financial statement covering the Authority's operations during the ~~12 months~~ 12-
770 month period covered by ~~such~~ the report. The Authority shall cause an audit of its books and
771 accounts to be made at least once in each year by certified public accountants to be selected by
772 the Authority, and the cost ~~thereof of such audit~~ shall be treated as a part of the cost of
773 construction and operation of ~~the a~~ project.

774 E. The records, books, and accounts of the Authority shall be subject to examination and
775 inspection by duly authorized representatives of the Commonwealth Transportation Board, the
776 governing bodies of the City of Richmond and the Counties of Henrico and Chesterfield, and
777 ~~any bondholder or~~ bondholders at any reasonable time, provided the business of the Authority is
778 not unduly interrupted or interfered with thereby.

779 F. Any member, agent, or employee of the Authority who contracts with the Authority or
780 is interested, ~~either directly or indirectly, in any contract contracting~~ with the Authority or in the
781 sale of any property, either real or personal, to the Authority shall be guilty of a misdemeanor
782 and shall be subject to a fine of not more than \$1,000 or imprisonment in jail for not more than
783 one year, ~~either~~ or both. Exclusive jurisdiction for the trial of such misdemeanors is hereby
784 conferred upon the Circuit Court of the City of Richmond; ~~provided, that the term "contract," as~~
785 used ~~herein in this section,~~ shall not be held to include the depositing of funds in, ~~or~~ the
786 borrowing of funds from, ~~or the serving as agent or trustee by,~~ any bank in which any member,
787 agent, or employee of the Authority may be a director, officer, or employee or have a security
788 interest; ~~nor shall such term include contracts or agreements with the Commonwealth~~
789 Transportation Board or the purchase of services from, or other transactions in the ordinary
790 course of business with, public service corporations.

791 **Drafting note: Technical changes.**

792 § ~~15.2-7018~~ 33.2-XXX. Approval by Commonwealth Transportation Board.

793 The Authority may not construct a limited access toll highway without the approval of
794 the Commonwealth Transportation Board.

795 **Drafting note: Technical changes.**

796 § ~~15.2-7019~~ 33.2-XXX. Construction; inconsistent laws.

797 This chapter shall be liberally construed to effectuate the purposes hereof, and the
798 foregoing sections of this chapter shall be deemed to provide an additional and alternative
799 method of doing the things authorized thereby, and shall be regarded as supplemental and
800 additional to powers conferred upon the City of Richmond by its Charter and upon the City of
801 Richmond and Counties of Henrico and Chesterfield by other provisions of law; ~~however, the.~~
802 The issuance of revenue bonds or revenue refunding bonds under the provisions of this chapter
803 need not comply with the requirements of any other law applicable to the issuance of bonds, and
804 except as ~~otherwise expressly~~ provided in this chapter, none of the powers granted to the
805 Authority under the provisions of this chapter shall be subject to the supervision ~~or,~~ regulation.

806 | or require the approval or consent of the City of Richmond or the Counties of Henrico ~~and or~~
807 | Chesterfield or any commission, board, bureau, official, or agency thereof or of the
808 | Commonwealth, except as otherwise provided in this chapter.

809 | **Drafting note: Technical changes.**

810 | § ~~15.2-7020~~ 33.2-XXX. Constitutional construction.

811 | The provisions of this chapter are severable, and if any of its provisions ~~shall be is~~ held
812 | unconstitutional by ~~any a~~ court of competent jurisdiction, the decision of such court shall not
813 | affect or impair any of the other provisions of this chapter.

814 | **Drafting note: Technical changes.**

815 | § ~~15.2-7021~~ 33.2-XXX. Inconsistent laws inapplicable.

816 | All other ~~general or special~~ laws, including the provisions of the Charter of the City of
817 | Richmond, inconsistent with any provision of this chapter are ~~hereby~~ declared to be inapplicable
818 | to the provisions of this chapter and to any project constructed by the Authority pursuant to this
819 | chapter.

820 | **Drafting note: Technical changes.**

1 | CHAPTER ~~18~~ __.

2 | WASHINGTON METROPOLITAN AREA TRANSIT REGULATION COMPACT.

3 | **Drafting note: Proposed Chapter __ of Subtitle IV of Title 33.2 is relocated from**
4 | **Chapter 18 (§ 56-529 et seq.) of Title 56. This chapter contains the Washington**
5 | **Metropolitan Area Transit Regulation Compact of 1958, Titles I and II. Title 56, Public**
6 | **Service Companies, generally contains entities under the purview of the State Corporation**
7 | **Commission which is no longer appropriate for the Washington Metropolitan Area**
8 | **Transit Regulation Compact so it is moved here for more relevant placement. In**
9 | **furtherance of the general policy of the Virginia Code Commission to include in the Code**
10 | **only provisions having general and permanent application, these statutes, which are**
11 | **limited in purpose and scope, are not set out in the Code of Virginia but are published in**
12 | **the Compacts Volume, and attention is called to them by this reference in proposed Title**
13 | **33.2.**

14 | § 1. The Governor is hereby authorized and directed to execute, on behalf of the
15 | Commonwealth of Virginia, a compact with the District of Columbia and the State of Maryland,
16 | which compact shall be in form substantially as follows: (1958, c. 627)

17 | § 2. (1958, c. 627; repealed 1988, c. 890)

18 | § 2.1. Washington Metropolitan Area Transit Regulation Compact.--Whereas, the
19 | Commonwealth of Virginia (Chapter 627, 1958 Acts of Assembly), the State of Maryland
20 | (Chapter 613, Acts of General Assembly, 1959), and the Commissioners of the District of
21 | Columbia (resolution of the Board of Commissioners, December 22, 1960) entered into and
22 | executed the Washington Metropolitan Area Transit Regulation Compact on December 22,
23 | 1960; and

24 | Whereas, the Congress of the United States has, by joint resolution approved October 9,
25 | 1962 (Public Law 87-767, 76 Stat. 764), given its consent to the State of Maryland, and the
26 | Commonwealth of Virginia to effectuate certain clarifying amendments to the Compact, and has

107 (B) The budget of the Commission and the appropriations of the signatories may not
108 include a sum for the payment of salaries or expenses of the Commissioners.

109 (C) The provisions of § 2.1-30 of the Code of Virginia do not apply to any official or
110 employee of the Commonwealth of Virginia acting or performing services under this Act.

111 3. (A) If the Commission requests and a signatory makes available personnel, services,
112 or material which the Commission would otherwise have to employ or purchase, the
113 Commission shall:

114 (I) determine an amount; and

115 (II) reduce the expenses allocable to a signatory.

116 (B) If any services in kind are rendered, the Commission shall return to the signatory an
117 amount equivalent to the savings to the Commission represented by the contribution in kind.

118 4. (A) The Commission shall have the power to establish fees under regulations,
119 including but not limited to filing fees and annual fees.

120 (B) The Commission shall return to the signatories fees established by it in proportion to
121 the share of the Commission's expenses borne by each signatory in the fiscal year during which
122 the fees were collected.

123 5. (A) The Commission shall keep accurate books of account, showing in full its receipts
124 and disbursements.

125 (B) The books of account shall be open for inspection by representatives of the
126 respective signatories at any reasonable time.)

127 Article V.

128 1. An action by the Commission may not be effective unless a majority of the members
129 concur.

130 2. An order entered by the Commission under the provisions of Title II of this Act which
131 affect operations or matters solely intrastate or solely within the District of Columbia may not
132 be effective unless the Commissioner from the affected signatory concurs.

133 3. Two members of the Commission are a quorum.

134 4. The Commission may delegate by regulation the tasks that it considers appropriate.

135 Article VI.

136 This Compact does not amend, alter, or affect the power of the signatories and their
137 political subdivisions to levy and collect taxes on the property or income of any person or
138 company subject to this Act or upon any material, equipment, or supplies purchased by that
139 person or company or to levy, assess, and collect franchise or other similar taxes, or fees for the
140 licensing of vehicles and their operation.

141 Article VII.

142 This amended Compact shall become effective ninety days after the signatories adopt it.

143 Article VIII.

144 1. (A) This Compact may be amended from time to time without the prior consent or
145 approval of the Congress of the United States and any amendment shall be effective unless,
146 within one year, the Congress disapproves that amendment.

147 (B) An amendment may not be effective unless adopted by each of the signatories.

148 2. (A) A signatory may withdraw from the Compact upon written notice to the other
149 signatories.

150 (B) In the event of a withdrawal, the Compact shall be terminated at the end of the
151 Commission's next full fiscal year following the notice.

152 3. Upon the termination of this Compact, the jurisdiction over the matters and persons
153 covered by this Act shall revert to the signatories and the federal government, as their interests
154 may appear, and the applicable laws of the signatories and the federal government shall be
155 reactivated without further legislation.

156 Article IX.

157 Each of the signatories pledges to each of the other signatories faithful cooperation in the
158 regulation of passenger transportation within the Metropolitan District and agrees to enact any
159 necessary legislation to achieve the objectives of the Compact for the mutual benefit of the
160 citizens living in the Metropolitan District.

161 Article X.

162 1. If a provision of this Act or its application to any person or circumstance is held
163 invalid in a court of competent jurisdiction, the invalidity does not affect other provisions or any
164 other application of this Act which can be given effect without the invalid provision or
165 application, and for this purpose the provisions of this Act are declared severable.

166 2. In accordance with the ordinary rules for construction of interstate compacts, this Act
167 shall be liberally construed to effectuate its purposes.

168 TITLE II.

169 COMPACT REGULATORY PROVISIONS.

170 Article XI.

171 1. This Act shall apply to the transportation for hire by any carrier of persons between
172 any points in the Metropolitan District, including but not limited to:

173 (A) As to interstate and foreign commerce, transportation performed over a regular route
174 between a point in the Metropolitan District and a point outside the Metropolitan District if:

175 (I) The majority of passengers transported over that regular route are transported
176 between points within the Metropolitan District; and

177 (II) That regular route is authorized by a certificate of public convenience and necessity
178 issued by the Interstate Commerce Commission; and

179 (B) The rates, charges, regulations, and minimum insurance requirements for taxicabs
180 and other vehicles that perform a bona fide taxicab service, where the taxicab or other vehicle:

181 (I) has a seating capacity of nine persons or less, including the driver; and

182 (II) provides transportation from one signatory to another within the Metropolitan
183 District.

184 2. Solely for the purposes of this section and Section 18 of this Article:

185 (A) The Metropolitan District shall include that portion of Anne Arundel County,
186 Maryland, occupied by the Baltimore-Washington International Airport; and

187 (B) Jurisdiction of the Commission shall apply to taxicab rates, charges, regulations, and
188 minimum insurance requirements for interstate transportation between the Baltimore-
189 Washington International Airport and other points in the Metropolitan District, unless conducted
190 by a taxicab licensed by the state of Maryland or a political subdivision of the state of Maryland,
191 or operated under a contract with the state of Maryland.

192 3. Excluded from the application of this Act are:

193 (A) Transportation by water, air, or rail;

194 (B) Transportation performed by the federal government, the signatories to this
195 Compact, or any political subdivision of the signatories;

196 (C) Transportation performed by the Washington Metropolitan Area Transit Authority;

197 (D) Transportation by a motor vehicle employed solely in transporting teachers and
198 school children through grade 12 to or from public or private schools;

199 (E) Transportation performed over a regular route between a point in the Metropolitan
200 District and a point outside the Metropolitan District, including transportation between those
201 points on the regular route that are within the Metropolitan District, if:

202 (I) the majority of passengers transported over the regular route are not transported
203 between points in the Metropolitan District; and

204 (II) the regular route is authorized by a certificate of public convenience and necessity
205 issued by the Interstate Commerce Commission;

206 (F) Matters other than rates, charges, regulations, and minimum insurance requirements
207 relating to vehicles and operations described in sections 1(B) and 2 of this article;

208 (G) Transportation solely within the Commonwealth of Virginia and the activities of
209 persons performing that transportation; and

210 (H) The exercise of any power or the discharge of any duty conferred or imposed upon
211 the State Corporation Commission of the Commonwealth of Virginia by the Virginia
212 Constitution.

213 Definitions.

214 4. In this Act the following words have the meanings indicated.

215 (A) "Carrier" means a person who engages in the transportation of passengers by motor
216 vehicle or other form or means of conveyance for hire.

217 (B) "Motor vehicle" means an automobile, bus, or other vehicle propelled or drawn by
218 mechanical or electrical power on the public streets or highways of the Metropolitan District
219 and used for the transportation of passengers.

220 (C) "Person" means an individual, firm, copartnership, corporation, company,
221 association or joint stock association, and includes a trustee, receiver, assignee, or personal
222 representative of them.

223 (D) "Taxicab" means a motor vehicle for hire (other than a vehicle operated under a
224 certificate of Authority issued by the Commission) having a seating capacity of nine persons or
225 less, including the driver, used to accept or solicit passengers along the public streets for
226 transportation.

227 General Duties of Carriers.

228 5. Each authorized carrier shall:

229 (A) Provide safe and adequate transportation service, equipment, and facilities; and

230 (B) Observe and enforce Commission regulations established under this Act.

231 Certificates of Authority.

232 6. (A) A person may not engage in transportation subject to this Act unless there is in
233 force a "certificate of Authority" issued by the Commission authorizing the person to engage in
234 that transportation.

235 (B) On the effective date of this Act a person engaged in transportation subject to this
236 Act under an existing "certificate of Public Convenience and Necessity" or order issued by the
237 Commission shall be issued a new "certificate of Authority" within 120 days after the effective
238 date of this amendment.

239 (C) (I) Pending issuance of the new certificate of Authority, the continuance of
240 operations shall be permitted under an existing certificate or order issued by the Commission
241 which will continue in effect on the effective date of this Act.

242 (II) The operations described in paragraph (I) of this subsection shall be performed
243 according to the rates, regulations, and practices of the certificate holder on file with the
244 Commission on the effective date of this Act.

245 7. (A) When an application is made under this section for a certificate of Authority, the
246 Commission shall issue a certificate to any qualified applicant, authorizing all or any part of the
247 transportation covered by the application, if it finds that:

248 (I) The applicant is fit, willing, and able to perform that transportation properly, conform
249 to the provisions of this Act, and conform to the rules, regulations and requirements of the
250 Commission; and

251 (II) That the transportation is consistent with the public interest.

252 (B) If the Commission finds that the requirements of subsection (A) of this section have
253 not been met, the application shall be denied by the Commission.

254 (C) The Commission shall act upon applications under this Act as soon as possible.

255 (D) The Commission may attach to the issuance of a certificate and to the exercise of the
256 rights granted under it any term, condition, or limitation that is consistent with the public
257 interest.

258 (E) A term, condition, or limitation imposed by the Commission may not restrict the
259 right of a carrier to add to equipment and facilities over the routes or within the territory
260 specified in the certificate, as business development and public demand may require.

261 (F) A person applying for or holding a certificate of Authority shall comply with
262 Commission regulations regarding maintenance of a surety bond, insurance policy, self-
263 insurance qualification, or other security or agreement in an amount that the Commission may
264 require to pay any final judgment against a carrier for bodily injury or death of a person, or for

265 loss or damage to property of another, resulting from the operation, maintenance, or use of a
266 motor vehicle or other equipment in performing transportation subject to this Act.

267 (G) A certificate of Authority is not valid unless the holder is in compliance with the
268 insurance requirements of the Commission.

269 8. Application to the Commission for a certificate under this Act shall be:

270 (A) Made in writing;

271 (B) Verified; and

272 (C) In the form and with the information that the Commission regulations require.

273 9. (A) A certificate of Authority issued by the Commission shall specify the route over
274 which a regularly scheduled commuter service or other regular-route service will operate.

275 (B) A certificate issued by the Commission authorizing irregular-route service shall be
276 coextensive with the Metropolitan District.

277 (C) A carrier subject to this Act may not provide any passenger transportation for hire on
278 an individual fare paying basis in competition with an existing, scheduled, regular-route,
279 passenger transportation service performed by, or under a contract with, the federal government,
280 a signatory to the Compact, a political subdivision of a signatory, or the Washington
281 Metropolitan Area Transit Authority, notwithstanding any "Certificate of Authority."

282 (D) A certificate for the transportation of passengers may include authority to transport
283 newspapers, passenger baggage, express, or mail in the same vehicle, or to transport passenger
284 baggage in a separate vehicle.

285 10. (A) Certificates shall be effective from the date specified on them and shall remain in
286 effect until amended, suspended, or terminated.

287 (B) Upon application by the holder of a certificate, the Commission may suspend,
288 amend, or terminate the Certificate of Authority.

289 (C) Upon complaint or the Commission's own initiative, the Commission, after notice
290 and hearing, may suspend or revoke all or part of any Certificate of Authority for willful failure
291 to comply with:

292 (I) A provision of this Act;

293 (II) An order, rule, or regulation of the Commission; or

294 (III) A term, condition, or limitation of the certificate.

295 (D) The Commission may direct that a carrier cease an operation conducted under a
296 certificate if the Commission finds the operation, after notice and hearing, to be inconsistent
297 with the public interest.

298 11. (A) A person may not transfer a Certificate of Authority unless the Commission
299 approves the transfer as consistent with the public interest.

300 (B) A person other than the person to whom an operating authority is issued by the
301 Commission may not lease, rent, or otherwise use that operating authority.

302 12. (A) A carrier may not abandon any scheduled commuter service operated under a
303 Certificate of Authority issued to the carrier under this Act, unless the Commission authorizes
304 the carrier to do so by a Commission order.

305 (B) Upon application by a carrier, the Commission shall issue an order, after notice and
306 hearing, if it finds that abandonment of the route is consistent with the public interest.

307 (C) The Commission, by regulation or otherwise, may authorize the temporary
308 suspension of a route if it is consistent with the public interest.

309 (D) As long as the carrier has an opportunity to earn a reasonable return in all its
310 operations, the fact that a carrier is operating a service at a loss will not, of itself, determine the
311 question of whether abandonment of service is consistent with the public interest.

312 13. (A) When the Commission finds that there is an immediate need for service that is
313 not available, the Commission may grant temporary authority for that service without a hearing
314 or other proceeding up to a maximum of 180 consecutive days, unless suspended or revoked for
315 good cause.

316 (B) A grant of temporary authority does not create any presumption that permanent
317 authority will be granted at a later date.

318 Rates and Tariffs.

319 14. (A) Each carrier shall file with the Commission, publish, and keep available for
320 public inspection tariffs showing:

321 (I) Fixed-rates and fixed-fares for transportation subject to this Act; and

322 (II) Practices and regulations, including those affecting rates and fares, required by the
323 Commission.

324 (B) Each effective tariff shall:

325 (I) Remain in effect for at least 60 days from its effective date, unless the Commission
326 orders otherwise; and

327 (II) Be published and kept available for public inspection in the form and manner
328 prescribed by the Commission.

329 (C) A carrier may not charge a rate or fare for transportation subject to this Act other
330 than the applicable rate or fare specified in a tariff filed by the carrier under this Act and in
331 effect at the time.

332 15. (A) A carrier proposing to change a rate, fare, regulation, or practice specified in an
333 effective tariff shall file a tariff showing the change in the form and manner, and with the
334 information, justification, notice, and supporting material prescribed by the Commission.

335 (B) Each tariff filed under subsection (A) of this section shall state a date on which the
336 tariff shall take effect, which shall be at least seven calendar days after the date on which the
337 tariff is filed, unless the Commission orders an earlier effective date or rejects the tariff.

338 (C) (I) A tariff filed for approval with the Commission may be refused acceptance for
339 filing if it is not consistent with this Act and Commission regulations; and

340 (II) A tariff refused for filing shall be void.

341 16. (A) The Commission may hold a hearing upon complaint or upon the Commission's
342 own initiative after reasonable notice to determine whether a rate, fare, regulation, or practice
343 relating to a tariff is unjust, unreasonable, unduly discriminatory, or unduly preferential between
344 classes of riders or between locations within the Metropolitan District.

345 (B) Within 120 days of the hearing, the Commission shall pass an order prescribing the
346 lawful rate, fare, regulation, or practice, or affirming the tariff.

347 Through Routes, Joint Fares.

348 17. With the approval of the Commission, any carrier subject to this Act may establish
349 through routes and joint fares with any other lawfully authorized carrier.

350 Taxicab Fares.

351 18. (A) the Commission shall prescribe reasonable rates for transportation by taxicab,
352 only when:

353 (I) The trip is between a point in the jurisdiction of one signatory and a point in the
354 jurisdiction of another signatory; and

355 (II) Both points are within the Metropolitan District.

356 (B) The fare or charge for taxicab transportation may be calculated on a mileage basis, a
357 zone basis, or on any other basis approved by the Commission.

358 (C) The Commission may not require the installation of a taximeter in any taxicab when
359 a taximeter is not permitted or required by the jurisdiction licensing and otherwise regulating the
360 operation and service of the taxicab.

361 (D) A person licensed by a signatory to own or operate a taxicab shall comply with
362 Commission regulations regarding maintenance of a surety bond, insurance policy, self-
363 insurance qualification, or other security or agreement in an amount that the Commission may
364 require to pay a final judgment for bodily injury or death of a person, or for loss or damage to
365 property of another, resulting from the operation, maintenance, or use of a taxicab in performing
366 transportation subject to this Act.

367 Article XII.

368 Accounts, Records, and Reports.

369 1. (A) The Commission may prescribe that any carrier subject to this Act:

370 (I) Submit special reports and annual or other periodic reports;

371 (II) Make reports in a form and manner required by the Commission;

372 (III) Provide a detailed answer to any question about which the Commission requires
373 information;

374 (IV) Submit reports and answers under oath; and

375 (V) Keep accounts, records, and memoranda of its activity, including movement of
376 traffic and receipt and expenditure of money in a form and for a period required by the
377 Commission.

378 (B) The Commission shall have access at all times to the accounts, records, memoranda,
379 lands, buildings, and equipment of any carrier for inspection purposes.

380 (C) This section shall apply to any person controlling, controlled by, or under common
381 control with a carrier subject to this Act, whether or not that person otherwise is subject to this
382 Act.

383 (D) A carrier that has its principal office outside of the Metropolitan District J operates
384 both inside and outside of the Metropolitan District may keep all accounts, records, and
385 memoranda at its principal office, but the carrier shall produce those materials before the
386 Commission when directed by the Commission.

387 (E) This section does not relieve a carrier from recordkeeping or reporting obligations
388 imposed by a state or federal agency or regulatory commission for transportation service
389 rendered outside the Metropolitan District.

390 Issuance of Securities.

391 2. This Act does not impair any authority of the federal government and the signatories
392 to regulate the issuance of securities by a carrier.

393 Consolidations, Mergers, and Acquisition of Control.

394 3. (A) A carrier or any person controlling, controlled by, or under common control with
395 a carrier shall obtain Commission approval to;

396 (I) Consolidate or merge any part of the ownership, management, or operation of its
397 property or franchise with a carrier that operates in the Metropolitan District;

398 (II) Purchase, lease, or contract to operate a substantial part of the property or franchise
399 of another carrier that operates in the Metropolitan District; or

400 (III) Acquire control of another carrier that operates in the Metropolitan District through
401 ownership of its stock or other means.

402 (B) Application for Commission approval of a transaction under this section shall be
403 made in the form and with the information that the regulations of the Commission require.

404 (C) If the Commission finds, after notice and hearing, that the proposed transaction is
405 consistent with the public interest, the Commission shall pass an order authorizing the
406 transaction.

407 (D) Pending determination of an application filed under this section, the Commission
408 may grant "temporary approval" without a hearing or other proceeding up to a maximum of 180
409 consecutive days if the Commission determines that grant to be consistent with the public
410 interest.

411 Article XIII.

412 Investigations by the Commission and Complaints.

413 1. (A) A person may file a written complaint with the Commission regarding anything
414 done or omitted by a person in violation of a provision of this Act, or in violation of a
415 requirement established under it.

416 (B) (I) If the respondent does not satisfy the complaint and the facts suggest that there
417 are reasonable grounds for an investigation, the Commission shall investigate the matter.

418 (II) If the Commission determines that a complaint does not state facts which warrant
419 action, the Commission may dismiss the complaint without hearing.

420 (III) The Commission shall notify a respondent that a complaint has been filed at least
421 ten days before a hearing is set on the complaint.

422 (C) The Commission may investigate on its own motion a fact, condition, practice, or
423 matter to;

424 (I) Determine whether a person has violated or will violate a provision of this Act or a
425 rule, regulation, or order;

426 (II) Enforce the provisions of this Act or prescribe or enforce rules or regulations under
427 it; or

428 (III) Obtain information to recommend further legislation.

429 (D) If, after hearing, the Commission finds that a respondent has violated a provision of
430 this Act or any requirement established under it, the Commission shall;

431 (I) Issue an order to compel the respondent to comply with this Act; and

432 (II) Effect other just and reasonable relief.

433 (E) For the purpose of an investigation or other proceeding under this Act, the
434 Commission may administer oaths and affirmations, subpoena witnesses, compel their
435 attendance, take evidence, and require the production of books, papers, correspondence,
436 memoranda, contracts, agreements, or other records or evidence which the Commission
437 considers relevant to the inquiry.

438 Hearings; Rules of Procedure.

439 2. (A) Hearings under this Act shall be held before the Commission, and records shall be
440 kept.

441 (B) Rules of practice and procedure adopted by the Commission shall govern all
442 hearings, investigations, and proceedings under this Act, but the Commission may apply the
443 technical rules of evidence when appropriate.

444 Administrative powers of Commission; Rules, Regulations, and Orders.

445 3. (A) The Commission shall perform any act, and prescribe, issue, make, amend, or
446 rescind any order, rule, or regulation that it finds necessary to carry out the provisions of this
447 Act.

448 (B) The rules and regulations of the Commission shall prescribe the form of any
449 statement, declaration, application, or report filed with the Commission, the information it shall
450 contain, and the time of filing.

451 (C) The rules and regulations of the Commission shall be effective thirty days after
452 publication in the manner which the Commission shall prescribe, unless a different date is
453 specified.

454 (D) Orders of the Commission shall be effective on the date and in the manner which the
455 Commission shall prescribe.

456 (E) For the purposes of its rules and regulations, the Commission may classify persons
457 and matters within its jurisdiction and prescribe different requirements for them.

458 (F) Commission rules and regulations shall be available for public inspection during
459 reasonable business hours.

460 Reconsideration of Orders.

461 4. (A) A party to a proceeding affected by a final order or decision of the Commission
462 may file within thirty days of its publication a written application requesting Commission
463 reconsideration of the matter involved, and stating specifically the errors claimed as grounds for
464 the reconsideration.

465 (B) The Commission shall grant or deny the application within thirty days after it has
466 been filed.

467 (C) If the Commission does not grant or deny the application by order within thirty days,
468 the application shall be deemed denied.

469 (D) If the application is granted, the Commission shall rescind, modify, or affirm its
470 order or decision with or without a hearing, after giving notice to all parties.

471 (E) Filing an application for reconsideration may not act as a stay upon the execution of
472 a Commission order or decision, or any part of it unless the Commission orders otherwise.

473 (F) An appeal may not be taken from an order or decision of the Commission until an
474 application for reconsideration has been filed and determined.

475 (G) Only an error specified as a ground for reconsideration may be used as a ground for
476 judicial review.

477 Judicial Review.

478 5. (A) Any party to a proceeding under this Act may obtain a review of the
479 Commission's order in the United States Court of Appeals for the Fourth Circuit, or in the
480 United States Court of Appeals for the District of Columbia Circuit, by filing within sixty days
481 after Commission determination of an application for reconsideration, a written petition praying
482 that the order of the Commission be modified or set aside.

483 (B) A copy of the petition shall be delivered to the office of the Commission and the
484 Commission shall certify and file with the court a transcript of the record upon which the
485 Commission order was entered.

486 (C) The court shall have exclusive jurisdiction to affirm, modify, remand for
487 reconsideration, or set aside the Commission's order.

488 (D) The court's judgment shall be final, subject to review by the Supreme Court of the
489 United States upon certiorari or certification as provided in Title 28 U.S.C. §§ 1254 and 2350.

490 (E) The commencement of proceedings under subsection (A) of this section may not
491 operate as a stay of the Commission's order unless specifically ordered by the court.

492 (F) The Commission and its members, officers, agents, employees, or representatives are
493 not liable to suit or action or for any judgment or decree for damages, loss, or injury resulting
494 from action taken under the Act, nor required in any case arising or any appeal taken under this
495 Act to make a deposit, pay costs, or pay for service to the clerks of a court or to the marshal of
496 the United States or give a supersedeas bond or security for damages.

497 Enforcement of Act; Penalty for Violations.

498 6. (A) Whenever the Commission determines that a person is engaged or will engage in
499 an act or practice which violates a provision of this Act or a rule, regulation, or order under it,
500 the Commission may bring an action in the United States District Court in the district in which
501 the person resides or conducts business or in which the violation occurred to enjoin the act or
502 practice and to enforce compliance with this Act or a rule, regulation, or order under it.

503 (B) If the court makes a determination under subsection (A) of this section, that a person
504 has violated or will violate this Act or a rule, regulation, or order under the Act, the court shall
505 grant a permanent or temporary injunction or decree or restraining order without bond.

506 (C) Upon application of the Commission, the United States District Court for the district
507 in which the person resides or conducts business, or in which the violation occurred, shall have
508 jurisdiction to issue an order directing that person to comply with the provisions of this Act or a
509 rule, regulation, or order of the Commission under it, and to effect other just and reasonable
510 relief.

511 (D) The Commission may employ attorneys necessary for:

512 (I) The conduct of its work;

513 (II) Representation of the public interest in Commission investigations, cases or
514 proceedings on the Commission's own initiative or upon complaint; or

515 (III) Representation of the Commission in any court case.

516 (E) The expenses of employing an attorney shall be paid out of the funds of the
517 Commission, unless otherwise directed by the court.

518 (F) (I) A person who knowingly and willfully violates a provision of this Act, or a rule,
519 regulation, requirement, or order issued under it, or a term or condition of a certificate shall be
520 subject to a civil forfeiture of not more than \$1,000 for the first violation and not more than
521 \$5,000 for any subsequent violation.

522 (II) Each day of the violation shall constitute a separate violation.

523 (III) Civil forfeitures shall be paid to the Commission with interest as assessed by the
524 court.

525 (IV) The Commission shall pay to each signatory a share of the civil forfeitures and
526 interest equal to the proportional share of the Commission's expenses borne by each signatory in
527 the fiscal year during which the civil forfeiture is collected by the Commission.

528 Article XIV.

529 Expenses of Investigations and Other Proceedings.

530 1. (A) A carrier shall bear all expenses of an investigation or other proceeding conducted
531 by the Commission concerning the carrier, and all litigation expenses, including appeals, arising
532 from an investigation or other proceeding.

533 (B) When the Commission initiates an investigation or other proceeding, the
534 Commission may require the carrier to pay to the Commission a sum estimated to cover the
535 expenses that will be incurred under this section.

536 (C) Money paid by the carrier shall be deposited in the name and to the credit of the
537 Commission, in any bank or other depository located in the Metropolitan District designated by
538 the Commission, and the Commission may disburse that money to defray expenses of the
539 investigation, proceeding, or litigation in question.

540 (D) The Commission shall return to the carrier any unexpended balance remaining after
541 payment of expenses.

542 Applicability of Other Laws.

543 2. (A) The applicability of each law, rule, regulation, or order of a signatory relating to
544 transportation subject to this Act shall be suspended on the effective date of this Act.

545 (B) The provisions of subsection (A) of this section do not apply to a law of a signatory
546 relating to inspection of equipment and facilities.

547 (C) During the existence of the Compact, the jurisdiction of the Interstate Commerce
548 Commission is suspended to the extent it is in conflict with the provisions of this Act.

549 Existing Rules, Regulations, Orders, and Decisions.

550 3. All Commission rules, regulations, orders, or decisions that are in force on the
551 effective date of this Act shall remain in effect and be enforceable under this Act, unless
552 otherwise provided by the Commission.

553 Pending Actions or Proceedings.

554 4. A suit, action, or other judicial proceeding commenced prior to the effective date of
555 this Act by or against the Commission is not affected by the enactment of this Act and shall be
556 prosecuted and determined under the law applicable at the time the proceeding was commenced.

557 Annual Report of the Commission.

558 5. The Commission shall make an annual report for each fiscal year ending June 30, to
559 the Governor of Virginia and the Governor of Maryland, and to the Mayor of the District of
560 Columbia as soon as practicable after June 30, but no later than the first day of January of each
561 year, which may contain, in addition to a report of the work performed under this Act, other
562 information and recommendations concerning passenger transportation within the Metropolitan
563 District as the Commission considers advisable. (1988, c. 890; 2007, c. 378; 2009, c. 540)

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 XX

WASHINGTON METROPOLITAN AREA TRANSIT AUTHORITY COMPACT.

Drafting note: Proposed Chapter ___ of Subtitle IV of Title 33.2 is relocated from Title 56 and will include the Washington Metropolitan Area Transit Authority Compact of 1966, Title III. Title 56, Public Service Companies, generally contains entities under the purview of the State Corporation Commission, which WMATA no longer is, so it is moved here for more relevant placement. In furtherance of the general policy of the Virginia Code Commission to include in the Code only provisions having general and permanent application, these statutes, which are limited in purpose and scope, are not set out in the Code of Virginia but are published in the Compacts Volume, and attention is called to them by this reference in proposed Title 33.2.

§ 3. Whereas, Maryland, Virginia and the District of Columbia heretofore have entered into the Washington Metropolitan Area Transit Regulation Compact (Virginia--Ch. 627, 1958 Acts of Assembly; Maryland--Ch. 613, Acts of General Assembly 1959; District of Columbia--Resolution of the Board of Commissioners adopted December 22, 1960), with the consent of the Congress (J.R., September 15, 1960, P.L., 86-794, 74 Stat. 1031, as amended by 76 Stat. 764), as a first step toward the improvement of transit service in the metropolitan area of Washington, D.C.;

Whereas, in said Compact each of the Signatories pledged to each of the other signatory parties faithful cooperation in the solution and control of transit and traffic problems within said metropolitan area and, in order to effect such purposes, agreed to enact any necessary legislation to achieve the objectives of the Compact to the mutual benefit of the citizens living within said metropolitan area and for the advancement of the interests of the Signatories;

Whereas, it has been established by a decade of studies that a regional system of improved and expanded transit facilities, including grade-separated rail facilities in congested areas, is essential in said metropolitan area for the satisfactory movement of people and goods, the alleviation of present and future traffic congestion, the economic welfare and vitality of all

28 parts of the area, the effectiveness of the departments and agencies of the federal government
29 located within the area, the orderly growth and development of the District of Columbia and the
30 Maryland and Virginia portions of the area, the comfort and convenience of the residents of and
31 visitors to the area, and the preservation of the beauty and dignity of the Nation's Capital;

32 Whereas, the Congress has authorized Maryland, Virginia and the District of Columbia
33 to negotiate a Compact for the establishment of an organization empowered to provide
34 necessary transit facilities (P.L. 86-669, 74 Stat. 537) and in said legislation declared the policy,
35 inter alia, that the development and administration of such transit facilities requires (1)
36 cooperation among the federal, state and local government of the area, (2) financial participation
37 by the federal government in the creation of major facilities that are beyond the financial
38 capacity or borrowing powers of the private carriers, the District of Columbia and the local
39 governments of the area, and (3) coordination of transit facilities with other public facilities and
40 with the use of land, public and private;

41 Whereas, private transit companies should be utilized to the extent practicable in
42 providing the regional transit facilities and services, consistent with the requirements of the
43 public interest that the publicly and privately owned facilities be operated as a coordinated
44 regional system without unnecessary duplicating services;

45 Whereas, adequate provision should be made for the protection of transit labor in the
46 development and operation of the regional system;

47 Whereas, adequate provisions should be made to eliminate any requirement of additional
48 authentication of manual signature of bonds guaranteed by the United States of America; and

49 Whereas, it is hereby determined that an Authority to be created by interstate compact
50 between the District of Columbia, the State of Maryland and the Commonwealth of Virginia, is
51 the most suitable form of organization to achieve the stated objectives;

52 Now, therefore, the District of Columbia, the State of Maryland and the Commonwealth
53 of Virginia, hereinafter referred to as Signatories, do hereby amend the Washington

54 Metropolitan Area Transit Regulation Compact by adding thereto Title III, as hereinafter set
55 forth, and do hereby covenant and agree substantially, as follows:

56 Title III

57 Article I

58 Definitions

59 Definitions

60 1. As used in this Title, the following words and terms shall have the following
61 meanings, unless the context clearly requires a different meaning:

62 (a) "Board" means the Board of Directors of the Washington Metropolitan Area Transit
63 Authority;

64 (b) "Director" means a member of the Board of Directors of the Washington
65 Metropolitan Area Transit Authority;

66 (c) "Private transit companies" and "private carriers" means corporations, persons, firms
67 or associations rendering transit service within the Zone pursuant to a certificate of public
68 convenience and necessity issued by the Washington Metropolitan Area Transit Commission or
69 by a franchise granted by the United States or any Signatory party to this Title;

70 (d) "Signatory" means the State of Maryland, the Commonwealth of Virginia and the
71 District of Columbia;

72 (e) "State" includes District of Columbia;

73 (f) "Transit facilities" means all real and personal property located in the Zone, necessary
74 or useful in rendering transit service between points within the Zone, by means of rail, bus,
75 water or air and any other mode of travel, including, without limitation, tracks, rights-of-way,
76 bridges, tunnels, subways, rolling stock for rail, motor vehicle, marine and air transportation,
77 stations, terminals and ports, areas for parking and all equipment, fixtures, buildings and
78 structures and services incidental to or required in connection with the performance of transit
79 service;

80 (g) "Transit services" means the transportation of persons and their packages and
81 baggage by means of transit facilities between points within the Zone including the
82 transportation of newspapers, express and mail between such points, and charter service which
83 originates within the Zone but does not include taxicab service or individual-ticket-sales
84 sightseeing operations;

85 (h) "Transit Zone" or "Zone" means the Washington Metropolitan Area Transit Zone
86 created and described in Section 3 as well as any additional area that may be added pursuant to
87 Section 83(a) of this Compact; and

88 (i) "WMATC" means Washington Metropolitan Area Transit Commission.

89 Article II

90 Purpose and Functions

91 Purpose

92 2. The purpose of this Title is to create a regional instrumentality, as a common agency
93 of each Signatory party, empowered, in the manner hereinafter set forth, (1) to plan, develop,
94 finance and cause to be operated improved transit facilities, in coordination with transportation
95 and general development planning for the Zone, as part of a balanced regional system of
96 transportation, utilizing to their best advantage the various modes of transportation, (2) to
97 coordinate the operation of the public and privately owned or controlled transit facilities, to the
98 fullest extent practicable, into a unified regional transit system without unnecessary duplicating
99 service, and (3) to serve such other regional purposes and to perform such other regional
100 functions as the Signatories may authorize by appropriate legislation.

101 Article III

102 Organization and Area

103 Washington Metropolitan Area Transit Zone

104 3. There is hereby created the Washington Metropolitan Area Transit Zone which shall
105 embrace the District of Columbia, the Cities of Alexandria, Falls Church and Fairfax and the
106 Counties of Arlington, Fairfax and Loudoun and political subdivisions of the Commonwealth of

107 Virginia located within those counties, and the counties of Montgomery and Prince George's in
108 the State of Maryland and political subdivisions of the State of Maryland located in said
109 counties.

110 Washington Metropolitan Area Transit Authority

111 4. There is hereby created, as an instrumentality and agency of each of the Signatory
112 parties hereto, the Washington Metropolitan Area Transit Authority which shall be a body
113 corporate and politic, and which shall have the powers and duties granted herein and such
114 additional powers as may hereafter be conferred upon it pursuant to law.

115 Board Membership

116 5. (a) The Authority shall be governed by a Board of eight Directors consisting of two
117 Directors for each Signatory and two for the federal government (one of whom shall be a
118 regular passenger and customer of the bus or rail service of the Authority). For Virginia, the
119 Directors shall be appointed by the Northern Virginia Transportation Commission; for the
120 District of Columbia by the Council of the District of Columbia; for Maryland, by the
121 Washington Suburban Transit Commission; and for the federal government, by the
122 Administrator of General Services. For Virginia and Maryland, the Directors shall be appointed
123 from among the members of the appointing body, except as otherwise provided herein, and shall
124 serve for a term coincident with their term on the appointing body. A Director for a Signatory
125 may be removed or suspended from office only as provided by the law of the Signatory from
126 which he was appointed. The nonfederal appointing authorities shall also appoint an alternate
127 for each Director. In addition, the Administrator of General Services shall also appoint two
128 nonvoting members who shall serve as the alternates for the federal Directors. An alternate
129 Director may act only in the absence of the Director for whom he has been appointed an
130 alternate, except that, in the case of the District of Columbia where only one Director and his
131 alternate are present, such alternate may act on behalf of the absent Director. Each alternate,
132 including the federal nonvoting Directors, shall serve at the pleasure of the appointing authority.

133 In the event of a vacancy in the office of Director or alternate, it shall be filled in the same
134 manner as an original appointment.

135 (b) Before entering upon the duties of his office each Director and alternate director shall
136 take and subscribe to the following oath (or affirmation) of office or any such other oath or
137 affirmation, if any, as the Constitution or laws of the Government he represents shall provide:

138 "I,....., hereby solemnly swear (or affirm) that I will support and defend the
139 Constitution of the United States and the Constitution and Laws of the state or political
140 jurisdiction from which I was appointed as a Director (alternate director) of the Board of
141 Washington Metropolitan Area Transit Authority and will faithfully discharge the duties of the
142 office upon which I am about to enter."

143 Compensation of Directors and Alternates

144 6. Members of the Board and alternates shall serve without compensation but may be
145 reimbursed for necessary expenses incurred as an incident to the performance of their duties.

146 Organization and Procedure

147 7. The Board shall provide for its own organization and procedure. It shall organize
148 annually by the election of a Chairman and Vice-Chairman from among its members. Meetings
149 of the Board shall be held as frequently as the Board deems that the proper performance of its
150 duties requires and the Board shall keep minutes of its meetings. The Board shall adopt rules
151 and regulations governing its meeting, minutes and transactions.

152 Quorum and Actions by the Board

153 8. (a) Four Directors or alternates consisting of at least one Director or alternate
154 appointed from each Signatory, shall constitute a quorum and no action by the Board shall be
155 effective unless a majority of the Board present and voting, which majority shall include at least
156 one Director or alternate from each Signatory, concur therein; provided, however, that a plan of
157 financing may be adopted or a mass transit plan adopted, altered, revised or amended by the
158 unanimous vote of the Directors representing any two Signatories.

159 (b) The actions of the Board shall be expressed by motion or resolution. Actions dealing
160 solely with internal management of the Authority shall become effective when directed by the
161 Board, but no other action shall become effective prior to the expiration of thirty days following
162 its adoption; provided, however, that the Board may provide for the acceleration of any action
163 upon a finding that such acceleration is required for the proper and timely performance of its
164 functions.

165 Officers

166 9. (a) The officers of the Authority, none of whom shall be members of the Board, shall
167 consist of a general manager, a secretary, a treasurer, a comptroller, an inspector general, and a
168 general counsel and such other officers as the Board may provide. Except for the office of
169 general manager, inspector general, and comptroller, the Board may consolidate any of such
170 other offices in one person. All such officers shall be appointed and may be removed by the
171 Board, shall serve at the pleasure of the Board and shall perform such duties and functions as
172 the Board shall specify. The Board shall fix and determine the compensation to be paid to all
173 officers and, except for the general manager who shall be a full-time employee, all other officers
174 may be hired on a full-time or part-time basis and may be compensated on a salary or fee basis,
175 as the Board may determine. All employees and such officers as the Board may designate shall
176 be appointed and removed by the general manager under such rules of procedure and standards
177 as the Board may determine.

178 (b) The general manager shall be the chief administrative officer of the Authority and,
179 subject to policy direction by the Board, shall be responsible for all activities of the Authority.

180 (c) The treasurer shall be the custodian of the funds of the Authority, shall keep an
181 account of all receipts and disbursements and shall make payments only upon warrants duly and
182 regularly signed by the Chairman or Vice-Chairman of the Board, or other person authorized by
183 the Board to do so, and by the secretary or general manager; provided, however, that the Board
184 may provide that warrants not exceeding such amounts or for such purposes as may from time

185 to time be specified by the Board may be signed by the general manager or by persons
186 designated by him.

187 (d) The inspector general shall report to the Board and head the Office of the Inspector
188 General, an independent and objective unit of the Authority that conducts and supervises audits,
189 program evaluations, and investigations relating to Authority activities; promotes economy,
190 efficiency, and effectiveness in Authority activities; detects and prevents fraud and abuse in
191 Authority activities; and keeps the Board fully and currently informed about deficiencies in
192 Authority activities as well as the necessity for and progress of corrective action.

193 (e) An oath of office in the form set out in § 5 (b) of this Article shall be taken,
194 subscribed and filed with the Board by all appointed officers.

195 (f) Each Director, officer and employee specified by the Board shall give such bond in
196 such form and amount as the Board may require, the premium for which shall be paid by the
197 Authority.

198 Conflict of Interest

199 10. (a) No Director, officer or employee shall:

200 (1) be financially interested, either directly or indirectly, in any contract, sale, purchase,
201 lease or transfer of real or personal property to which the Board or the Authority is a party;

202 (2) in connection with services performed within the scope of his official duties, solicit
203 or accept money or any other thing of value in addition to the compensation or expenses paid to
204 him by the Authority;

205 (3a.) offer money or any thing of value for or in consideration of obtaining an
206 appointment, promotion or privilege in his employment with the Authority.

207 (b) Any Director, officer or employee who shall willfully violate any provision of this
208 section shall, in the discretion of the Board, forfeit his office or employment.

209 (c) Any contract or agreement made in contravention of this section may be declared
210 void by the Board.

211 (d) Nothing in this section shall be construed to abrogate or limit the applicability of any
212 federal or state law which may be violated by any action prescribed by this section.

213 Article IV

214 Pledge of Cooperation

215 11. Each Signatory pledges to each other faithful cooperation in the achievement of the
216 purposes and objects of this Title.

217 Article V

218 General Powers

219 Enumeration

220 12. In addition to the powers and duties elsewhere described in this Title, and except as
221 limited in this Title, the Authority may:

222 (a) Sue and be sued;

223 (b) Adopt and use a corporate seal and alter the same at pleasure;

224 (c) Adopt, amend, and repeal rules and regulations respecting the exercise of the powers
225 conferred by this Title;

226 (d) Construct, acquire, own, operate, maintain, control, sell and convey real and personal
227 property and any interest therein by contract, purchase, condemnation, lease, license, mortgage
228 or otherwise but all of said property shall be located in the Zone and shall be necessary or useful
229 in rendering transit service or in activities incidental thereto;

230 (e) Receive and accept such payments, appropriations, grants, gifts, loans, advances and
231 other funds, properties and services as may be transferred or made available to it by any
232 Signatory party, any political subdivision or agency thereof, by the United States, or by any
233 agency thereof, or by any other public or private corporation or individual, and enter into
234 agreements to make reimbursement for all or any part thereof;

235 (f) Enter into and perform contracts, leases and agreements with any person, firm or
236 corporation or with any political subdivision or agency of any Signatory party or with the

237 federal government, or any agency thereof, including, but not limited to, contracts or agreements
238 to furnish transit facilities and service;

239 (g) Create and abolish offices, employments and positions (other than those specifically
240 provided for herein) as it deems necessary for the purposes of the Authority, and fix and provide
241 for the qualification, appointment, removal, term, tenure, compensation, pension and retirement
242 rights of its officers and employees without regard to the laws of any of the Signatories;

243 (h) Establish, in its discretion, a personnel system based on merit and fitness and, subject
244 to eligibility, participate in the pension and retirement plans of any Signatory, or political
245 subdivision or agency thereof, upon terms and conditions mutually acceptable;

246 (i) Contract for or employ any professional services;

247 (j) Control and regulate the use of facilities owned or controlled by the Authority, the
248 service to be rendered and the fares and charges to be made therefor;

249 (k) Hold public hearings and conduct investigations relating to any matter affecting
250 transportation in the Zone with which the Authority is concerned and, in connection therewith,
251 subpoena witnesses, papers, records and documents; or delegate such authority to any officer.
252 Each Director may administer oaths or affirmations in any proceeding or investigation;

253 (l) Make or participate in studies of all phases and forms of transportation, including
254 transportation vehicle research and development techniques and methods for determining traffic
255 projections, demand motivations, and fiscal research and publicize and make available the
256 results of such studies and other information relating to transportation;

257 (m) Exercise, subject to the limitations and restrictions herein imposed, all powers
258 reasonably necessary or essential to the declared objects and purposes of this Title; and

259 (n) Establish regulations providing for public access to Board records.

260 Article VI

261 Planning

262 Mass Transit Plan

263 13. (a) The Board shall develop and adopt, and may from time to time review and revise,
264 a mass transit plan for the immediate and long-range needs of the Zone. The mass transit plan
265 shall include one or more plans designating (1) the transit facilities to be provided by the
266 Authority, including the locations of terminals, stations, platforms, parking facilities and the
267 character and nature thereof; (2) the design and location of such facilities; (3) whether such
268 facilities are to be constructed or acquired by lease, purchase or condemnation; (4) a timetable
269 for the provision of such facilities; (5) the anticipated capital cost; (6) estimated operating
270 expenses and revenues relating thereto; and (7) the various other factors and considerations,
271 which, in the opinion of the Board, justify and require the projects therein proposed. Such plan
272 shall specify the type of equipment to be utilized, the areas to be served, the routes and
273 schedules of service expected to be provided and probable fares and charges therefor.

274 (b) In preparing the mass transit plan, and in any review or revision thereof, the Board
275 shall make full utilization of all data, studies, reports and information available from the
276 National Capital Transportation Agency and from any other agencies of the federal government,
277 and from Signatories and the political subdivisions thereof.

278 Planning Process

279 14. (a) The mass transit plan, and any revisions, alterations or amendments thereof, shall
280 be coordinated, through the procedures hereinafter set forth, with

281 (1) other plans and programs affecting transportation in the Zone in order to achieve a
282 balanced system of transportation, utilizing each mode to its best advantage;

283 (2) the general plan or plans for the development of the Zone; and

284 (3) the development plans of the various political subdivisions embraced within the
285 Zone.

286 (b) It shall be the duty and responsibility of each member of the Board to serve as liaison
287 between the Board and the body which appointed him to the Board. To provide a framework for
288 regional participation in the planning process, the Board shall create technical committees
289 concerned with planning and collection and analyses of data relative to decision-making in the

290 transportation planning process and the Mayor and Council of the District of Columbia, the
291 component governments of the Northern Virginia Transportation District and the Washington
292 Suburban Transit District shall appoint representatives to such technical committees and
293 otherwise cooperate with the Board in the formulation of a mass transit plan, or in revisions,
294 alterations or amendments thereof.

295 (c) The Board, in the preparation, revision, alteration or amendment of a mass transit
296 plan, shall

297 (1) consider data with respect to current and prospective conditions in the Zone,
298 including, without limitation, land use, population, economic factors affecting development
299 plans, goals or objectives for the development of the Zone and the separate political
300 subdivisions, transit demands to be generated by such development, travel patterns, existing and
301 proposed transportation and transit facilities, impact of transit plans on the dislocation of
302 families and businesses, preservation of the beauty and dignity of the Nation's Capital, factors
303 affecting environmental amenities and aesthetics and financial resources;

304 (2) cooperate with and participate in any continuous, comprehensive transportation
305 planning process cooperatively established by the highway agencies of the Signatories and the
306 local political subdivisions in the Zone to meet the planning standards now or hereafter
307 prescribed by the Federal-Aid Highway Acts; and

308 (3) to the extent not inconsistent with or duplicative of the planning process specified in
309 subdivision (2) of this subsection (c), cooperate with the National Capital Planning
310 Commission, the National Capital Regional Planning Council, the Washington Metropolitan
311 Council of Governments, the Washington Metropolitan Area Transit Commission, the highway
312 agencies of the Signatories, the Maryland-National Capital Park and Planning Commission, the
313 Northern Virginia Regional Planning and Economic Development Commission, the Maryland
314 State Planning Department and the Commission of Fine Arts. Such cooperation shall include the
315 creation, as necessary, of technical committees composed of personnel, appointed by such

316 agencies, concerned with planning and collection and analysis of data relative to decision-
317 making in the transportation planning process.

318 Adoption of Mass Transit Plan

319 15. (a) Before a mass transit plan is adopted, altered, revised or amended, the Board shall
320 transmit such proposed plan, alteration, revision or amendment for comment to the following
321 and to such other agencies as the Board shall determine:

322 (1) the Mayor and Council of the District of Columbia, the Northern Virginia
323 Transportation Commission and the Washington Suburban Transit Commission;

324 (2) the governing bodies of the counties and cities embraced within the Zone;

325 (3) the transportation agencies of the Signatories;

326 (4) the Washington Metropolitan Area Transit Commission;

327 (5) the Washington Metropolitan Council of Governments;

328 (6) the National Capital Planning Commission;

329 (7) the National Capital Regional Planning Council;

330 (8) the Maryland-National Capital Park and Planning Commission;

331 (9) the Northern Virginia Regional Planning and Economic Development Commission;

332 (10) the Maryland State Planning Department; and

333 (11) the private transit companies operating in the Zone and the Labor Unions
334 representing the employees of such companies and employees of contractors providing services
335 under operating contracts.

336 (b) A copy of the proposed mass transit plan, amendment or revision, shall be kept at the
337 office of the Board and shall be available for public inspection. Information with respect thereto
338 shall be released to the public. After thirty days' notice published once a week for two
339 successive weeks in one or more newspapers of general circulation within the Zone, a public
340 hearing shall be held with respect to the proposed plan, alteration, revision or amendment. The
341 thirty days' notice shall begin to run on the first day the notice appears in any such newspaper.
342 The Board shall consider the evidence submitted and statements and comments made at such

343 hearing and may make any changes in the proposed plan, amendment or revision which it deems
344 appropriate and such changes may be made without further hearing.

345 Article VII

346 Financing

347 Policy

348 16. With due regard for the policy of Congress for financing a mass transit plan for the
349 Zone set forth in Section 204 (g) of the National Capital Transportation Act of 1960 (74 Stat.
350 537), it is hereby declared to be the policy of this Title that, as far as possible, the payment of all
351 costs shall be borne by the persons using or benefiting from the Authority's facilities and
352 services and any remaining costs shall be equitably shared among the federal, District of
353 Columbia and participating local governments in the Zone. The allocation among such
354 governments of such remaining cost shall be determined by agreement among them and shall be
355 provided in the manner hereinafter specified.

356 Plan of Financing

357 17. (a) The Authority, in conformance with said policy, shall prepare and adopt a plan
358 for financing the construction, acquisition and operation of facilities specified in a mass transit
359 plan adopted pursuant to Article VI hereof, or in any alteration, revision or amendment thereof.
360 Such plan of financing shall specify the facilities to be constructed or acquired, the cost thereof,
361 the principal amount of revenue bonds, equipment trust certificates and other evidences of debt
362 proposed to be issued, the principal terms and provisions of all loans and underlying agreements
363 and indentures, estimated operating expenses and revenues and the proposed allocation among
364 the federal, District of Columbia and participating local governments of the remaining costs and
365 deficits, if any, and such other information as the Commission may consider appropriate.

366 (b) Such plan of financing shall constitute a proposal to the interested governments for
367 financial participation and shall not impose any obligation on any government and such
368 obligations shall be created only as provided in § 18 of this Article VII.

369 Commitments for Financial Participation

370 18. (a) Commitments on behalf of the portion of the Zone located in Virginia shall be by
371 contract or agreement by the Authority with the Northern Virginia Transportation District, or its
372 component governments, as authorized in the Transportation District Act of 1964 (Ch. 631,
373 1964 Virginia Acts of Assembly), to contribute to the capital required for the construction
374 and/or acquisition of facilities specified in a mass transit plan adopted as provided in Article VI,
375 or any alteration, revision or amendment thereof, and for meeting expenses and obligations in
376 the operation of such facilities. No such contract or agreement, however, shall be entered into by
377 the Authority with the Northern Virginia Transportation District unless said District has entered
378 into the contracts or agreements with its member governments, as contemplated by § 1 (b) (4) of
379 Article 4 of said Act, which contracts or agreements expressly provide that such contracts or
380 agreements shall inure to the benefit of the Authority and shall be enforceable by the Authority
381 in accordance with the provisions of § 2, Article 5 of said Act, and such contracts or agreements
382 are acceptable to the Board. The General Assembly of Virginia hereby authorizes and
383 designates the Authority as the agency to plan for and provide transit facilities and services for
384 the area of Virginia encompassed within the Zone within the contemplation of Article 1, § 3 (c)
385 of said Act.

386 (b) Commitments on behalf of the portion of the Zone located in Maryland shall be by
387 contract or agreement by the Authority with the Washington Suburban Transit District, pursuant
388 to which the Authority undertakes to provide transit facilities and service in consideration for
389 the agreement by said District to contribute to the capital required for the construction and/or
390 acquisition of facilities specified in a mass transit plan adopted as provided in Article VI, or in
391 any alteration, revision or amendment thereof, and for meeting expenses and obligations
392 incurred in the operation of such facilities.

393 (c) With respect to the federal government, the commitment or obligation to render
394 financial assistance shall be created by appropriation or in such other manner, or by such other
395 legislation, as the Congress shall determine. Commitments by the District of Columbia shall be
396 by contract or agreement between the governing body of the District of Columbia and the

397 Authority, pursuant to which the Authority undertakes, subject to the provisions of § 20 hereof,
398 to provide transit facilities and service in consideration for the undertaking by the District of
399 Columbia to contribute to the capital required for the construction and/or acquisition of facilities
400 specified in a mass transit plan adopted as provided in Article VI, or in any alteration, revision
401 or amendment thereof, and for meeting expenses and obligations incurred in the operation of
402 such facilities.

403 (d) (1) All payments made by the local Signatory governments for the Authority for the
404 purpose of matching federal funds appropriated in any given year as authorized under Title VI,
405 § 601, P.L. 110-432 regarding funding of capital and preventive maintenance projects of the
406 Authority shall be made from amounts derived from dedicated funding sources.

407 (2) For purposes of this paragraph (d), a "dedicated funding source" means any source of
408 funding that is earmarked or required under state or local law to be used to match federal
409 appropriations authorized under Title VI, § 601, P.L. 110-432 for payments to the Authority.

410 Administrative Expenses

411 19. Prior to the time the Authority has receipts from appropriations and contracts or
412 agreements as provided in § 18 of this Article VII, the expenses of the Authority for
413 administration and for preparation of a mass transit and financing plan, including all
414 engineering, financial, legal and other services required in connection therewith, shall, to the
415 extent funds for such expenses are not provided through grants by the federal government, be
416 borne by the District of Columbia, by the Washington Suburban Transit District and the
417 component governments of the Northern Virginia Transportation District. Such expenses shall
418 be allocated among such governments on the basis of population as reflected by the latest
419 available population statistics of the Bureau of the Census; provided, however, that upon the
420 request of any director the Board shall make the allocation upon estimates of population
421 acceptable to the Board. The allocations shall be made by the Board and shall be included in the
422 annual current expense budget prepared by the Board.

423 Acquisition of Facilities from Federal or Other Agencies

424 20. (a) The Authority is authorized to acquire by purchase, lease or grant or in any
425 manner other than condemnation, from the federal government or any agency thereof, from the
426 District of Columbia, Maryland or Virginia, or any political subdivision or agency thereof, any
427 transit and related facilities, including real and personal property and all other assets, located
428 within the Zone, whether in operation or under construction. Such acquisition shall be made
429 upon such terms and conditions as may be agreed upon and subject to such authorization or
430 approval by the Congress and the governing body of the District of Columbia, as may be
431 required; provided, however, that if such acquisition imposes or may impose any further or
432 additional obligation or liability upon the Washington Suburban Transit District, the Northern
433 Virginia Transportation District, or any component government thereof, under any contract with
434 the Authority, the Authority shall not make the acquisition until any such affected contract has
435 been appropriately amended.

436 (b) For such purpose, the Authority is authorized to assume all liabilities and contracts
437 relating thereto, to assume responsibility as primary obligor, endorser or guarantor on any
438 outstanding revenue bonds, equipment trust certificates or other form of indebtedness authorized
439 in this Act issued by such predecessor agency or agencies and, in connection therewith, to
440 become a party to, and assume the obligations of, any indenture or loan agreement underlying or
441 issued in connection with any outstanding securities or debts.

442 Temporary Borrowing

443 21. The Board may borrow, in anticipation of receipts, from any Signatory, the
444 Washington Suburban Transit District, the Northern Virginia Transportation District, or any
445 component government thereof, or from any lending institution for any purposes of this Title,
446 including administrative expenses. Such loans shall be for a term not to exceed two years and at
447 such rates on interest as shall be acceptable to the Board. The Signatories and any such political
448 subdivision or agency may, in its discretion, make such loans from any available money.

449 Funding

477 accordance with the commitments made pursuant to Article VII, § 18 of this Title, to balance
478 each of said budgets.

479 Payment

480 26. Subject to such review and approval as may be required by their budgetary or other
481 applicable processes, the federal government, the Government of the District of Columbia, the
482 Washington Suburban Transit District and the component governments of the Northern Virginia
483 Transportation District shall include in their respective budgets next to be adopted and
484 appropriate or otherwise provide the amounts certified to each of them as set forth in the
485 budgets.

486 Article IX

487 Revenue Bonds

488 Borrowing Power

489 27. The Authority may borrow money for any of the purposes of this Title, may issue its
490 negotiable bonds and other evidences of indebtedness in respect thereto and may mortgage or
491 pledge its properties, revenues and contracts as security therefor.

492 All such bonds and evidences of indebtedness shall be payable solely out of the
493 properties and revenues of the Authority. The bonds and other obligations of the Authority,
494 except as may be otherwise provided in the indenture under which they were issued, shall be
495 direct and general obligations of the Authority and the full faith and credit of the Authority are
496 hereby pledged for the prompt payment of the debt service thereon and for the fulfillment of all
497 other undertakings of the Authority assumed by it to or for the benefit of the holders thereof.

498 Funds and Expenses

499 28. The purposes of this Title shall include, without limitation, all costs of any project or
500 facility or any part thereof, including interest during a period of construction and for a period
501 not to exceed two years thereafter and any incidental expenses (legal, engineering, fiscal,
502 financial, consultant and other expenses) connected with issuing and disposing of the bonds; all
503 amounts required for the creation of an operating fund, construction fund, reserve fund, sinking

504 fund, or other special fund; all other expenses connected with administration, the planning,
505 design, acquisition, construction, completion, improvement or reconstruction of any facility or
506 any part thereof; and reimbursement of advances by the Board or by others for such purposes
507 and for working capital.

508 Credit Excluded; Officers, State, Political Subdivisions and Agencies

509 29. The Board shall have no power to pledge the credit of any Signatory party, political
510 subdivision or agency thereof, or to impose any obligation for payment of the bonds upon any
511 Signatory party, political subdivision or agency thereof, but may pledge the contracts of such
512 governments and agencies; provided, however, that the bonds may be underwritten in whole or
513 in part as to principal and interest by the United States, or by any political subdivision or agency
514 of any Signatory; provided, further, that any bonds underwritten in whole or in part as to
515 principal and interest by the United States shall not be issued without approval of the Secretary
516 of the Treasury. Neither the Directors nor any person executing the bonds shall be liable
517 personally on the bonds of the Authority or be subject to any personal liability or accountability
518 by reason of the issuance thereof.

519 Funding and Refunding

520 30. Whenever the Board deems it expedient, it may fund and refund the bonds and other
521 obligations of the Authority whether or not such bonds and obligations have matured. It may
522 provide for the issuance, sale or exchange of refunding bonds for the purpose of redeeming or
523 retiring any bonds (including the payment of any premium, duplicate interest or cash adjustment
524 required in connection therewith) issued by the Authority or issued by any other issuing body,
525 the proceeds of the sale of which have been applied to any facility acquired by the Authority or
526 which are payable out of the revenues of any facility acquired by the Authority. Bonds may be
527 issued partly to refund bonds and other obligations then outstanding, and partly for any other
528 purpose of the Authority. All provisions of this Title applicable to the issuance of bonds are
529 applicable to refunding bonds and to the issuance, sale or exchange thereof.

530 Bonds; Authorization Generally

531 31. Bonds and other indebtedness of the Authority shall be authorized by resolution of
532 the Board. The validity of the authorization and issuance of any bonds by the Authority shall not
533 be dependent upon nor affected in any way by: (i) the disposition of bond proceeds by the Board
534 or by contract, commitment or action taken with respect to such proceeds; or (ii) the failure to
535 complete any part of the project for which bonds are authorized to be issued. The Authority may
536 issue bonds in one or more series and may provide for one or more consolidated bond issues, in
537 such principal amounts and with such terms and provisions as the Board may deem necessary.
538 The bonds may be secured by a pledge of all or any part of the property, revenues and franchises
539 under its control. Bonds may be issued by the Authority in such amount, with such maturities
540 and in such denominations and form or forms, whether coupon or registered, as to principal
541 alone or as to both principal and interest, as may be determined by the Board. The Board may
542 provide for redemption of bonds prior to maturity on such notice and at such time or times and
543 with such redemption provisions, including premiums, as the Board may determine.

544 Bonds; Resolution and Indentures Generally

545 32. The Board may determine and enter into indentures or adopt resolutions providing
546 for the principal amount, date or dates, maturities, interest rate, or rates, denominations, form,
547 registration, transfer, interchange and other provisions of bonds and coupons and the terms and
548 conditions upon which the same shall be executed, issued, secured, sold, paid, redeemed, funded
549 and refunded. The resolution of the Board authorizing any bond or any indenture so authorized
550 under which the bonds are issued may include all such covenants and other provisions not
551 inconsistent with the provisions of this Title, other than any restriction on the regulatory powers
552 vested in the Board by this Title, as the Board may deem necessary or desirable for the issue,
553 payment, security, protection or marketing of the bonds, including without limitation covenants
554 and other provisions as to the rates or amounts of fees, rents and other charges to be charged or
555 made for use of the facilities; the use, pledge, custody, securing, application and disposition of
556 such revenues, of the proceeds of the bonds, and of any other moneys or contracts of the
557 Authority; the operation, maintenance, repair and reconstruction of the facilities and the

558 amounts which may be expended therefor; the sale, lease or other disposition of the facilities;
559 the insuring of the facilities and of the revenues derived therefrom; the construction or other
560 acquisition of other facilities; the issuance of additional bonds or other indebtedness; the rights
561 of the bondholders and of any trustee for the bondholders upon default by the Authority or
562 otherwise; and the modification of the provisions of the indenture and of the bonds. Reference
563 on the face of the bonds to such resolution or indenture by its date of adoption or the apparent
564 date on the face thereof is sufficient to incorporate all of the provisions thereof and of this Title
565 into the body of the bonds and their appurtenant coupons. Each taker and subsequent holder of
566 the bonds or coupons, whether the coupons are attached to or detached from the bonds, has
567 recourse to all of the provisions of the indenture and of this Title and is bound thereby.

568 Maximum Maturity

569 33. No bond or its terms shall mature in more than fifty years from its own date and in
570 the event any authorized issue is divided into two or more series or divisions, the maximum
571 maturity date herein authorized shall be calculated from the date on the face of each bond
572 separately, irrespective of the fact that different dates may be prescribed for the bonds of each
573 separate series or division of any authorized issue.

574 Tax Exemption

575 34. All bonds and all other evidences of debt issued by the Authority under the
576 provisions of this Title and the interest thereon shall at all times be free and exempt from all
577 taxation by or under authority of any Signatory parties, except for transfer, inheritance and
578 estate taxes.

579 Interest

580 35. Bonds shall bear interest at such rate or rates as may be determined by the Board,
581 payable annually or semiannually.

582 Place of Payment

583 36. The Board may provide for the payment of the principal and interest of bonds at any
584 place or places within or without the Signatory states, and in any specified lawful coin or
585 currency of the United States of America.

586 Execution

587 37. The Board may provide for the execution and authentication of bonds by the manual,
588 lithographed or printed facsimile signature of members of the Board, and by additional
589 authentication by a trustee or fiscal agent appointed by the Board; provided, however, that one
590 of such signatures shall be manual; and provided, further, that no such additional authentication
591 or manual signatures need be required in the case of bonds guaranteed by the United States of
592 America. If any of the members whose signatures or countersignatures appear upon the bonds or
593 coupons cease to be members before the delivery of the bonds or coupons, their signatures or
594 countersignatures are nevertheless valid and of the same force and effect as if the members had
595 remained in office until the delivery of the bonds and coupons.

596 Holding Own Bonds

597 38. The Board shall have power out of any funds available therefor to purchase its bonds
598 and may hold, cancel or resell such bonds.

599 Sale

600 39. The Board may fix terms and conditions for the sale or other disposition of any
601 authorized issue of bonds. The Board may sell bonds at less than their par or face value but no
602 issue of bonds may be sold at an aggregate price below the par or face value thereof if such sale
603 would result in a net interest cost to the Authority calculated upon the entire issue so sold in
604 excess of the applicable rate determined by the Board, payable semiannually, computed with
605 relation to the absolute maturity of the bonds according to standard tables of bond values,
606 deducting the amount of any premium to be paid on the redemption of any bonds prior to
607 maturity. All bonds issued and sold pursuant to this Title may be sold in such manner, either at
608 public or private sale, as the Board shall determine.

609 Negotiability

610 40. All bonds issued under the provisions of this Title are negotiable instruments.

611 Bonds Eligible for Investment and Deposit

612 41. Bonds issued under the provisions of this Title are hereby made securities in which
613 all public officers and public agencies of the Signatories and their political subdivisions and all
614 banks, trust companies, savings and loan associations, investment companies and others
615 carrying on a banking business, all insurance companies and insurance associations and others
616 carrying on an insurance business, all administrators, executors, guardians, trustees and other
617 fiduciaries, and all other persons may legally and properly invest funds, including capital in
618 their control or belonging to them. Such bonds are hereby made securities which may properly
619 and legally be deposited with and received by any officer of any Signatory, or of any agency or
620 political subdivision of any Signatory, for any purpose for which the deposit of bonds or other
621 obligations of such Signatory is now or may hereafter be authorized by law.

622 Validation Proceedings

623 42. Prior to the issuance of any bonds, the Board may institute a special proceeding to
624 determine the legality of proceedings to issue the bonds and their validity under the laws of any
625 of the Signatory parties. Such proceeding shall be instituted and prosecuted in rem and the final
626 judgment rendered therein shall be conclusive against all persons whomsoever and against each
627 of the Signatory parties.

628 43. No indenture need be recorded or filed in any public office, other than the office of
629 the Board. The pledge of revenues provided in any indenture shall take effect forthwith as
630 provided therein and irrespective of the date of receipt of such revenues by the Board or the
631 indenture trustee. Such pledge shall be effective as provided in the indenture without physical
632 delivery of the revenues to the Board or to the indenture trustee.

633 Pledged Revenues

634 44. Bond redemption and interest payments shall, to the extent provided in the resolution
635 or indenture, constitute a first, direct and exclusive charge and lien on all revenues received
636 from the use and operation of the facility, and on any sinking or other funds created therefrom.

637 All such revenues, together with interest thereon, shall constitute a trust fund for the security
638 and payment of such bonds and except as and to the extent provided in the indenture with
639 respect to the payment therefrom of expenses for other purposes including administration,
640 operation, maintenance, improvements or extensions of the facilities or other purposes shall not
641 be used or pledged for any other purpose so long as such bonds, or any of them, are outstanding
642 and unpaid.

643 Remedies

644 45. The holder of any bond may for the equal benefit and protection of all holders of
645 bonds similarly situated: (1) by mandamus or other appropriate proceedings require and compel
646 the performance of any of the duties imposed upon the Board or assumed by it, its officers,
647 agents or employees under the provisions of any indenture, in connection with the acquisition,
648 construction, operation, maintenance, repair, reconstruction or insurance of the facilities, or in
649 connection with the collection, deposit, investment, application and disbursement of the
650 revenues derived from the operation and use of the facilities, or in connection with the deposit,
651 investment and disbursement of the proceeds received from the sale of bonds; or (2) by action or
652 suit in a court of competent jurisdiction of any Signatory party require the Authority to account
653 as if it were the trustee of an express trust, or enjoin any acts or things which may be unlawful
654 or in violation of the rights of the holders of the bonds. The enumeration of such rights and
655 remedies does not, however, exclude the exercise or prosecution of any other rights or remedies
656 available to the holders of bonds.

657 Article X

658 Equipment Trust Certificates

659 Power

660 46. The Board shall have power to execute agreements, leases and equipment trust
661 certificates with respect to the purchase of facilities or equipment such as cars, trolley buses and
662 motor buses, or other craft, in the form customarily used in such cases and appropriate to effect
663 such purchase, and may dispose of such equipment trust certificates in such manner as it may

664 determine to be for the best interests of the Authority. Each vehicle covered by an equipment
665 trust certificate shall have the name of the owner and lessor plainly marked upon both sides
666 thereof, followed by the words "Owner and Lessor".

667 Payments

668 47. All moneys required to be paid by the Authority under the provisions of such
669 agreements, leases and equipment trust certificates shall be payable solely from the revenue to
670 be derived from the operation of the transit system or from such grants, loans, appropriations or
671 other revenues, as may be available to the Board under the provisions of this Title. Payment for
672 such facilities or equipment, or rentals thereof, may be made in installments, and the deferred
673 installments may be evidenced by equipment trust certificates as aforesaid, and title to such
674 facilities or equipment may not vest in the Authority until the equipment trust certificates are
675 paid.

676 Procedure

677 48. The agreement to purchase facilities or equipment by the Board may direct the
678 vendor to sell and assign the equipment to a bank or trust company, duly authorized to transact
679 business in any of the Signatory states, or to the Housing and Home Finance Administrator, as
680 trustee, lessor or vendor, for the benefit and security of the equipment trust certificates and may
681 direct the trustee to deliver the facilities and equipment to one or more designated officers of the
682 Board and may authorize the trustee simultaneously therewith to execute and deliver a lease of
683 the facilities or equipment to the Board.

684 Agreements and Leases

685 49. The agreements and leases shall be duly acknowledged before some person
686 authorized by law to take acknowledgments of deeds and in the form required for
687 acknowledgment of deeds and such agreements, leases, and equipment trust certificates shall be
688 authorized by resolution of the Board and shall contain such covenants, conditions and
689 provisions as may be deemed necessary or appropriate to insure the payment of the equipment

690 trust certificates from the revenues to be derived from the operation of the transit system and
691 other funds.

692 The covenants, conditions and provisions of the agreements, leases and equipment trust
693 certificates shall not conflict with any of the provisions of any resolution or trust agreement
694 securing the payment of bonds or other obligations of the Authority then outstanding or conflict
695 with or be in derogation of the rights of the holders of any such bonds or other obligations.

696 Law Governing

697 50. The equipment trust certificates issued hereunder shall be governed by Laws of the
698 District of Columbia and for this purpose the chief place of business of the Authority shall be
699 considered to be the District of Columbia. The filing of any documents required or permitted to
700 be filed shall be governed by the Laws of the District of Columbia.

701 Article XI

702 Operation of Facilities

703 Operation by Contract or Lease

704 51. Any facilities and properties owned or controlled by the Authority may be operated
705 by the Authority directly or by others pursuant to contract or lease as the Board may determine.

706 The Operating Contract

707 52. Without limitation upon the right of the Board to prescribe such additional terms and
708 provisions as it may deem necessary and appropriate, the operating contract shall:

709 (a) specify the services and functions to be performed by the Contractor;

710 (b) provide that the Contractor shall hire, supervise and control all personnel required to
711 perform the services and functions assumed by it under the operating contract and that all such
712 personnel shall be employees of the Contractor and not of the Authority;

713 (c) require the Contractor to assume the obligations of the labor contract or contracts of
714 any transit company which may be acquired by the Authority and assume the pension
715 obligations of any such transit company;

716 (d) require the Contractor to comply in all respects with the labor policy set forth in
717 Article XIV of this Title;

718 (e) provide that no transfer of ownership of the capital stock, securities or interests in
719 any Contractor, whose principal business in the operating contract, shall be made without
720 written approval of the Board and the certificates or other instruments representing such stock,
721 securities or interests shall contain a statement of this restriction;

722 (f) provide that the Board shall have the sole authority to determine the rates or fares to
723 be charged, the routes to be operated and the service to be furnished;

724 (g) specify the obligations and liabilities which are to be assumed by the Contractor and
725 those which are to be the responsibility of the Authority;

726 (h) provide for an annual audit of the books and accounts of the Contractor by an
727 independent certified public accountant to be selected by the Board and for such other audits,
728 examinations and investigations of the books and records, procedures and affairs of the
729 Contractor at such times and in such manner as the Board shall require, the cost of such audits,
730 examinations and investigations to be borne as agreed by the parties in the operating contracts;
731 and

732 (i) provided that no operating contract shall be entered into for a term in excess of five
733 years; provided, that any such contract may be renewed for successive terms, each of which
734 shall not exceed five years. Any such operating contract shall be subject to termination by the
735 Board for cause only.

736 Compensation for Contractor

737 53. Compensation to the Contractor under the operating contract may, in the discretion
738 of the Board, be in the form of (1) a fee paid by the Board to the Contractor for services, (2) a
739 payment by the Contractor to the Board for the right to operate the system, or (3) such other
740 arrangement as the Board may prescribe; provided, however, that the compensation shall bear a
741 reasonable relationship to the benefits to the Authority and to the estimated costs the Authority
742 would incur in directly performing the functions and duties delegated under the operating

743 contract; and provided, further that no such contract shall create any right in the Contractor (1)
744 to make or change any rate or fare or alter or change the service specified in the contract to be
745 provided or (2) to seek judicial relief by any form of original action, review or other proceeding
746 from any rate or fare or service prescribed by the Board. Any assertion, or attempted assertion,
747 by the Contractor of the right to make or change any rate or fare or service prescribed by the
748 Board shall constitute cause for termination of the operating contract. The operating contract
749 may provide incentives for efficient and economical management.

750 Selection of Contractor

751 54. The Board shall enter into an operating contract only after formal advertisement and
752 negotiations with all interested and qualified parties, including private transit companies
753 rendering transit service within the Zone; provided, however, that, if the Authority acquires
754 transit facilities from any agency of the federal or District of Columbia governments, in
755 accordance with the provisions of Article VII, § 20 of this Title, the Authority shall assume the
756 obligations of any operating contract which the transferor agency may have entered into.

757 Article XII

758 Coordination of Private and Public Facilities

759 Declaration of Policy

760 55. It is hereby declared that the interest of the public in efficient and economical transit
761 service and in the financial well-being of the Authority and of the private transit companies
762 requires that the public and private segments of the regional transit system be operated, to the
763 fullest extent possible, as a coordinated system without unnecessary duplicating service.

764 Implementation of Policy

765 56. In order to carry out the legislative policy set forth in § 55 of this Article XII

766 (a) The Authority--

767 (1) except as herein provided, shall not, directly or through a Contractor, perform transit
768 service by bus or similar motor vehicles;

769 (2) shall, in cooperation with the private carriers and WMATC coordinate to the fullest
770 extent practicable, the schedules for service performed by its facilities with the schedules for
771 service performed by private carriers; and

772 (3) shall enter into agreements with the private carriers to establish and maintain, subject
773 to approval by WMATC, through routes and joint fares and provide for the division thereof, or,
774 in the absence of such agreements, establish and maintain through routes and joint fares in
775 accordance with orders issued by WMATC directed to the private carriers when the terms and
776 conditions for such through service and joint fares are acceptable to it.

777 (b) The WMATC, upon application, complaint, or upon its own motion, shall--

778 (1) direct private carriers to coordinate their schedules for service with the schedules for
779 service performed by facilities owned or controlled by the Authority;

780 (2) direct private carriers to improve or extend any existing services or provide
781 additional service over additional routes;

782 (3) authorize a private carrier, pursuant to agreement between said carrier and the
783 Authority, to establish and maintain through routes and joint fares for transportation to be
784 rendered with facilities owned or controlled by the Authority if, after hearing held upon
785 reasonable notice, WMATC finds that such through routes and joint fares are required by the
786 public interest; and

787 (4) in the absence of such an agreement with the Authority, direct a private carrier to
788 establish and maintain through routes and joint fares with the Authority, if, after hearing held
789 upon reasonable notice, WMATC finds that such through service and joint fares are required by
790 the public interest; provided, however, that no such order, rule or regulation of WMATC shall
791 be construed to require the Authority to establish and maintain any through route and joint fare.

792 (c) WMATC shall not authorize or require a private carrier to render any service,
793 including the establishment or continuation of a joint fare for a through route service with the
794 Authority which is based on a division thereof between the Authority and private carrier which
795 does not provide a reasonable return to the private carrier, unless the carrier is currently earning

796 a reasonable return on its operation as a whole in performing transportation subject to the
797 jurisdiction of WMATC. In determining the issue of reasonable return, WMATC shall take into
798 account any income attributable to the carrier, or to any corporation, firm or association owned
799 in whole or in part by the carrier, from the Authority whether by way of payment for services or
800 otherwise.

801 (d) If the WMATC is unable, through the exercise of its regulatory powers over the
802 private carriers granted in subsection (b) hereof or otherwise, to bring about the requisite
803 coordination of operations and service between the private carriers and the Authority, the
804 Authority may in the situations specified in subsection (b) hereof, cause such transit service to
805 be rendered by its Contractor by bus or other motor vehicle, as it shall deem necessary to
806 effectuate the policy set forth in § 55 hereof. In any such situation, the Authority, in order to
807 encourage private carriers to render bus service to the fullest extent practicable, may, pursuant
808 to agreement, make reasonable subsidy payments to any private carrier.

809 (e) The Authority may acquire the capital stock or the transit facilities of any private
810 transit company and may perform transit service, including service by bus or similar motor
811 vehicle, with transit facilities so acquired, or with transit facilities acquired pursuant to Article
812 VII, § 20. Upon acquisition of the capital stock or the transit facilities of any private transit
813 company, the Authority shall undertake the acquisition, as soon as possible, of the capital stock
814 or the transit facilities of each of the other private transit companies within the Zone requesting
815 such acquisition. Lack of such request, however, shall not be construed to preclude the
816 Authority from acquiring the capital stock or the transit facilities of any such company pursuant
817 to § 82 of Article XVI.

818 Rights of Private Carriers Unaffected

819 57. Nothing in this title shall restrict or limit such rights and remedies, if any, that any
820 private carrier may have against the Authority arising out of acts done or actions taken by the
821 Authority hereunder. In the event any court of competent jurisdiction shall determine that the
822 Authority has unlawfully infringed any rights of any private carrier or otherwise caused or

823 permitted any private carrier to suffer legally cognizable injury, damages or harm and shall
824 award a judgment therefor, such judgment shall constitute a lien against any and all of the assets
825 and properties of the Authority.

826 Financial Assistance to Private Carriers

827 58. (a) The Board may accept grants from and enter into loan agreements with the
828 Housing and Home Finance Administrator, pursuant to the provisions of the Urban Mass
829 Transportation Act of 1964 (78 Stat. 302), or with any successor agency or under any law of
830 similar purport, for the purpose of rendering financial assistance to private carriers.

831 (b) An application by the Board for any such grant or loan shall be based on and
832 supported by a report from WMATC setting forth for each private carrier to be assisted (1) the
833 equipment and facilities to be acquired, constructed, reconstructed, or improved, (2) the service
834 proposed to be rendered by such equipment and facilities, (3) the improvement in service
835 expected from such facilities and equipment, (4) how the use of such facilities and equipment
836 will be coordinated with the transit facilities owned by the Authority, (5) the ability of the
837 affected private carrier to repay any such loans or grants and (6) recommended terms for any
838 such loans or grants.

839 (c) Any equipment or facilities acquired, constructed, reconstructed or improved with the
840 proceeds of such grants or loans shall be owned by the Authority and may be made available to
841 private carriers only by lease or other agreement which contain provisions acceptable to the
842 Housing and Home Finance Administrator assuring that the Authority will have satisfactory
843 continuing control over the use of such facilities and equipment.

844 Article XIII

845 Jurisdiction; Rates and Service

846 Washington Metropolitan Area Transit Commission

847 59. Except as provided herein, this Title shall not affect the functions and jurisdiction of
848 WMATC, as granted by Titles I and II of this Compact, over the transportation therein specified

849 and the persons engaged therein and the Authority shall have no jurisdiction with respect
850 thereto.

851 Public Facilities

852 60. Service performed by transit facilities owned or controlled by the Authority, and the
853 rates and fares to be charged for such service, shall be subject to the sole and exclusive
854 jurisdiction of the Board and, notwithstanding any other provision in this Compact contained,
855 WMATC shall have no authority with respect thereto, or with respect to any contractor in
856 connection with the operation by it of transit facilities owned or controlled by the Authority.
857 The determinations of the Board with respect to such matters shall not be subject to judicial
858 review nor to the processes to any court.

859 Standards

860 61. Insofar as practicable, and consistent with the provision of adequate service at
861 reasonable fares, the rates and fares and service shall be fixed by the Board so as to result in
862 revenues which will:

863 (a) pay the operating expenses and provide for repairs, maintenance and depreciation of
864 the transit system owned or controlled by the Authority;

865 (b) provide for payment of all principal and interest on outstanding revenue bonds and
866 other obligations and for payment of all amounts to sinking funds and other funds as may be
867 required by the terms of any indenture of loan agreement;

868 (c) provide for the purchase, lease or acquisition of rolling stock, including provisions
869 for interest, sinking funds, reserve funds, or other funds required for the payment of any
870 obligations incurred by the Authority for the acquisition of rolling stock; and

871 (d) provide funds for any purpose the Board deems necessary and desirable to carry out
872 the purposes of this title.

873 Hearings

874 62. (a) The Board shall not raise any fare or rate, nor implement a major service
875 reduction, except after holding a public hearing with respect thereto.

876 (b) Any Signatory, any political subdivision thereof, any agency of the federal
877 government and any person, firm or association served by or using the transit facilities of the
878 Authority and any private carrier may file a request with the Board for a hearing with respect to
879 any rates or charges made by the Board or any service rendered with the facilities owned or
880 controlled by the Authority. Such request shall be in writing, shall state the matter on which a
881 hearing is requested and shall set forth clearly the matters and things on which the request relies.
882 As promptly as possible after such a request is filed, the Board, or such officer or employee as it
883 may designate, shall confer with the protestant with respect to the matters complained of. After
884 such conference, the Board, if it deems the matter meritorious and of general significance, may
885 call a hearing with respect to such request.

886 (c) The Board shall give at least fifteen days' notice for all public hearings. The notice
887 shall be given by publication in a newspaper of daily circulation throughout the Transit Zone
888 and such notice shall be published once a week for two successive weeks. The notice period
889 shall start with the first day of publication. Notices of public hearings shall be posted in
890 accordance with regulations promulgated by the Board.

891 (d) Prior to calling a hearing on any matter specified in this section, the Board shall
892 prepare and file at its main office and keep open for public inspection its report relating to the
893 proposed action to be considered at such hearing. Upon receipt by the Board of any report
894 submitted by WMATC, in connection with a matter set for hearing, pursuant to the provisions of
895 § 63 of this Article XIII, the Board shall file such report at its main office and make it available
896 for public inspection. For hearings called by the Board pursuant to paragraph (b), above, the
897 Board also shall cause to be lodged and kept open for public inspection the written request upon
898 which the hearing is granted and all documents filed in support thereof.

899 Reference of Matters to WMATC

900 63. To facilitate the attainment of the public policy objectives for operation of the
901 publicly and privately owned or controlled transit facilities as stated in Article XII, § 55, prior to
902 the hearings provided for by § 62 hereof--

903 (a) The Board shall refer to WMATC for its consideration and recommendations, any
904 matter which the Board considers may affect the operation of the publicly and privately owned
905 or controlled transit facilities as a coordinated regional transit system and any matter for which
906 the Board has called a hearing, pursuant to § 62 of this Article XIII, except that temporary or
907 emergency changes in matters affecting service shall not be referred; and

908 (b) WMATC, upon such reference of any matter to it, shall give the referred matter
909 preference over any other matters pending before it and shall, as expeditiously as practicable,
910 prepare and transmit its report thereon to the Board. The Board may request WMATC to
911 reconsider any part of its report or to make any supplemental reports it deems necessary. All of
912 such reports shall be advisory only.

913 (c) Any report submitted by WMATC to the Board shall consider, without limitation, the
914 probable effect of the matter or proposal upon the operation of the publicly and privately owned
915 or controlled transit facilities as a coordinated regional system, passenger movements, fare
916 structures, service and the impact on the revenues of both the public and private facilities.

917 Article XIV

918 Labor Policy

919 Construction

920 64. The Board shall take such action as may be necessary to insure that all laborers and
921 mechanics employed by contractors or subcontractors in the construction, alteration or repair,
922 including painting and decorating, of projects, buildings and works which are undertaken by the
923 Authority or are financially assisted by it, shall be paid wages at rates not less than those
924 prevailing on similar construction in the locality as determined by the Secretary of Labor in
925 accordance with the Davis-Bacon Act, as amended (40 U.S.C. 276a-276a-5), and every such
926 employee shall receive compensation at a rate not less than one and one-half times his basic rate
927 of pay for all hours worked in any workweek in excess of eight hours in any workday or forty
928 hours in any workweek, as the case may be. A provision stating the minimum wages thus
929 determined and the requirement that overtime be paid as above provided shall be set out in each

930 project advertisement for bids and in each bid proposal form and shall be made a part of the
931 contract covering the project, which contract shall be deemed to be a contract of the character
932 specified in § 103 of the Contract Work Hours Standards Act (76 Stat. 357), as now or as may
933 hereafter be in effect. The Secretary of Labor shall have, with respect to the administration and
934 enforcement of the labor standards specified in this provision, the supervisory, investigatory and
935 other authority and functions set forth in Reorganization Plan Numbered 14 of 1950 (15 F.R.
936 3176, 64 Stat. 1267, 5 U.S.C. 133z-15), and § 2 of the Act of June thirteen, nineteen hundred
937 thirty-four, as amended (48 Stat. 948, as amended; 40 U.S.C. 276 (c)). The requirements of this
938 section shall also be applicable with respect to the employment of laborers and mechanics in the
939 construction, alteration or repair, including painting and decorating, of the transit facilities
940 owned or controlled by the Authority where such activities are performed by a contractor
941 pursuant to agreement with the operator of such facilities.

942 Equipment and Supplies

943 65. Contracts for the manufacture or furnishing of materials, supplies, articles and
944 equipment shall be subject to the provisions of the Walsh-Healey Public Contracts Act (41
945 U.S.C. 35 et seq.), as now or as may hereafter be in effect.

946 Operations

947 66. (a) The rights, benefits, and other employee protective conditions and remedies of §
948 13 (c) of the Federal Transit Act, as amended (49 U.S.C. Section 5333 (b)), as determined by
949 the Secretary of Labor, shall apply to Washington Metropolitan Area Transit Authority
950 employees otherwise covered by the Act. The Authority shall extend to employees whose
951 positions are adversely affected by the expenditure of federal funds obtained by WMATA
952 pursuant to congressional appropriations, the rights, benefits, and other employee protective
953 conditions and remedies of section 13 (c) of the Federal Transit Act, as amended (49 U.S.C. §
954 5333(b)).

955 (b) The Authority shall deal with and enter into written contracts with employees as
956 defined in § 152 of Title 29, United States Code, through accredited representatives of such

957 employees or representatives of any labor organization authorized to act for such employees
958 concerning wages, salaries, hours, working conditions, and pension or retirement provisions.
959 Each such contract entered into after the effective date of this act shall prohibit the contracting
960 employees from engaging in any strike or an employer from engaging in any lockout.

961 (c) In case of any labor dispute involving the Authority and such employees where
962 collective bargaining does not result in agreement, either party may declare that an impasse has
963 been reached between the parties and may, by written notification to the other party and to the
964 Federal Mediation and Conciliation Service, request the Service to appoint a mediator for the
965 purpose of assisting them in reconciling their differences and resolving the controversy on terms
966 which are mutually acceptable. Within five days of the receipt of the request the Federal
967 Mediation and Conciliation Service shall appoint a mediator in accordance with its rules and
968 procedures for such appointment. The mediator shall meet with the parties forthwith, either
969 jointly or separately, and shall take such steps as he or she deems appropriate to persuade the
970 parties to resolve their differences and effect a mutually acceptable agreement. The mediator
971 shall not, however, make findings of fact or recommend terms of settlement. Each party shall
972 pay one-half of the expenses of such mediator. If the mediator is unable to effect settlement of
973 the controversy within fifteen days after his or her appointment, the Authority shall submit such
974 dispute to fact finding by a board composed of three persons, one appointed by the Authority,
975 one appointed by the labor organization representing the employees, and a third member to be
976 agreed upon by the labor organization and the Authority. The member agreed upon by the labor
977 organization and the Authority shall act as chairman of the board. The determination of the
978 majority of the fact finding board thus established shall be advisory as to all matters in dispute.
979 If after a period of ten days from the date of the appointment of the two persons representing the
980 Authority and the labor organization, the third person has not been selected, then either of the
981 two persons may request the Federal Mediation and Conciliation Service to furnish a list of five
982 persons from which the third person shall be selected; provided, however, that the list shall not
983 include the name of the person who served as mediator unless inclusion of his or her name is

984 mutually agreed to by both parties. The persons appointed by the Authority and the labor
985 organization, promptly after the receipt of such list shall determine by lot the order of
986 elimination, and thereafter each shall in that order alternately eliminate one name until only one
987 name remains. The remaining person on the list shall be the third member of the fact finding
988 board. The term "labor dispute" shall be broadly construed and shall include any controversy
989 concerning wages, salaries, hours, working conditions, or benefits including health and welfare,
990 sick leave, insurance or pension or retirement provisions but not limited thereto, and including
991 any controversy concerning any differences or questions that may arise between the parties
992 including but not limited to the making or maintaining of collective bargaining agreements, the
993 terms to be included in such agreements, and the interpretation or application of such collective
994 bargaining agreements. Each party shall pay one-half of the expenses of such fact finding.
995 Under no circumstances may the parties resort to binding arbitration after the date of enactment
996 of this act or the expiration date of any contract requiring binding arbitration, whichever is later.
997 This prohibition against binding arbitration shall not be interpreted to preclude such arbitration
998 of individual employee grievances.

999 (d) The Authority is hereby authorized and empowered to establish and maintain a
1000 system of pensions and retirement benefits for such officers and employees of the Authority as
1001 may be designated or described by resolution of the Authority; to fix the terms of and
1002 restrictions on admission to such system and the classifications therein; to provide that persons
1003 eligible for admission in such pension system shall not be eligible for admission to, or receive
1004 any benefits from, any other pension system (except Social Security benefits), which is financed
1005 or funded, in whole or in part, directly or indirectly by funds paid or appropriated by the
1006 Authority to such other pension system, and to provide in connection with such pension system,
1007 a system of benefits payable to the beneficiaries and dependents of any participant in such
1008 pension system after the death of such participant (whether accidental or otherwise, whether
1009 occurring in the actual performance of duty or otherwise, or both) subject to such exceptions,
1010 conditions, restrictions and classifications as may be provided by resolution of the Authority.

1011 Such pension system shall be financed or funded by such means and in such manner as may be
1012 determined by the Authority to be economically feasible. Unless the Authority shall otherwise
1013 determine, no officer or employee of the Authority and no beneficiary or dependent of any such
1014 officer or employee shall be eligible to receive any pension or retirement or other benefits both
1015 from or under any such pension system and from or under any pension or retirement system
1016 established by an acquired transportation system or established or provided for, by or under the
1017 provisions of any collective bargaining agreement between the Authority and the representatives
1018 of its employees.

1019 (e) Whenever the Authority acquires existing transit facilities from a public or privately
1020 owned utility either in proceeding by eminent domain or otherwise, the Authority shall assume
1021 and observe all existing labor contracts and pension obligations. When the Authority acquires an
1022 existing transportation system, all employees who are necessary for the operation thereof by the
1023 Authority shall be transferred to and appointed as employees of the Authority, subject to all the
1024 rights and benefits of this Title. These employees shall be given seniority credit and sick leave,
1025 vacation, insurance and pension credits in accordance with the records or labor agreements from
1026 the acquired transportation system. Members and beneficiaries of any pension or retirement
1027 system or other benefits established by the acquired transportation system shall continue to have
1028 rights, privileges, benefits, obligations and status with respect to such established system. The
1029 Authority shall assume the obligations of any transportation system acquired by it with regard to
1030 wages, salaries, hours, working conditions, sick leave, health and welfare and pension or
1031 retirement provisions for employees. It shall assume the provisions of any collective bargaining
1032 agreement between such acquired transportation system and the representatives of its
1033 employees. The Authority and the employees, through their representatives for collective
1034 bargaining purposes, shall take whatever action may be necessary to have pension trust funds
1035 presently under the joint control of the acquired transportation system and the participating
1036 employees through their representative transferred to the trust fund to be established, maintained
1037 and administered jointly by the Authority and the participating employees through their

1038 representatives. No employee of any acquired transportation system who is transferred to a
1039 position with the Authority shall by reason of such transfer be placed in any worse position with
1040 respect to workmen's compensation, pension, seniority, wages, sick leave, vacation, health and
1041 welfare insurance or any other benefits, than he enjoyed as an employee of such acquired
1042 transportation system.

1043 (f) The Authority shall not require any person, as a condition of employment or
1044 continuation of employment, to join any labor union or labor organization. The Authority shall
1045 not require any person, as a condition of employment or continuation of employment, to pay any
1046 dues, fees, or other charges of any kind to any labor union or labor organization.

1047 Article XV

1048 Relocation Assistance

1049 Relocation Program and Payments

1050 67. Section 7 of the Urban Mass Transportation Act of 1964, and as the same may from
1051 time to time be amended, and all regulations promulgated thereunder, are hereby made
1052 applicable to individuals, families, business concerns and nonprofit organizations displaced
1053 from real property by actions of the Authority without regard to whether financial assistance is
1054 sought by or extended to the Authority under any provision of that Act; provided, however, that
1055 in the event real property is acquired for the Authority by an agency of the federal government,
1056 or by a State or local agency or instrumentality, the Authority is authorized to reimburse the
1057 acquiring agency for relocation payments made by it.

1058 Relocation of Public or Public Utility Facilities

1059 68. Notwithstanding the provisions of § 67 of this Article XV, any highway or other
1060 public facility or any facilities of a public utility company which will be dislocated by reason of
1061 a project deemed necessary by the Board to effectuate the authorized purposes of this Title shall
1062 be relocated if such facilities are devoted to a public use, and the reasonable cost of relocation, if
1063 substitute facilities are necessary, shall be paid by the Board from any of its moneys.

1064 Article XVI

1065 General Provisions**1066** Creation and Administration of Funds

1067 69. (a) The Board may provide for the creation and administration of such funds as may
1068 be required. The funds shall be disbursed in accordance with rules established by the Board and
1069 all payments from any fund shall be reported to the Board. Moneys and such funds and other
1070 moneys of the Authority shall be deposited, as directed by the Board, in any branch or
1071 subsidiary of any state or national bank which has operations within the Zone, and having a total
1072 paid-in capital of at least one million dollars (\$1,000,000). The trust department of any such
1073 state or national bank may be designated as a depository to receive any securities acquired or
1074 owned by the Authority. The restriction with respect to paid-in capital may be waived for any
1075 such bank which agrees to pledge federal securities to protect the funds and securities of the
1076 Authority in such amounts and pursuant to such arrangements as may be acceptable to the
1077 Board.

1078 (b) Any moneys of the Authority may, in the discretion of the Board and subject to any
1079 agreement or covenant between the Authority and the holders of any of its obligations limiting
1080 or restricting classes of investments, be invested in: (i) Direct obligations of or obligations
1081 guaranteed by the United States of America; (ii) Bonds, debentures, notes or other evidences of
1082 indebtedness issued by agencies of the United States of America, including but not limited to
1083 the following: Bank for Cooperatives; Federal Intermediate Credit Banks; Federal Home Loan
1084 Bank System; Export-Import Bank of the United States; Federal Land Banks, Federal National
1085 Mortgage Association; Student Loan Marketing Association; Government National Mortgage
1086 Association; Tennessee Valley Authority; or United States Postal Service; (iii) Securities that
1087 qualify as lawful investments and may be accepted as security for fiduciary, trust and public
1088 funds under the control of the United States or any officer or officers thereof, or securities
1089 eligible as collateral for deposits of moneys of the United States, including United States
1090 Treasury tax and loan accounts; (iv) Domestic and Eurodollar certificates of deposit; and (v)
1091 Bonds, debentures, notes or other evidences of indebtedness issued by a domestic corporation,

1092 such as a corporation organized under the laws of one of the states of the United States,
1093 provided that such obligations are nonconvertible and at the time of their purchase are rated in
1094 the highest rating categories by a nationally recognized bond rating agency.

1095 Annual Independent Audit

1096 70. (a) As soon as practical after the closing of the fiscal year, an audit shall be made of
1097 the financial accounts of the Authority. The audit shall be made by qualified certified public
1098 accountants selected by the Board, who shall have no personal interest direct or indirect in the
1099 financial affairs of the Authority or any of its officers or employees. The report of audit shall be
1100 prepared in accordance with generally accepted auditing principles and shall be filed with the
1101 Chairman and other officers as the Board shall direct. Copies of the report shall be distributed to
1102 each Director, to the Congress, to the Mayor and Council of the District of Columbia, to the
1103 Governors of Virginia and Maryland, to the Washington Suburban Transit Commission, to the
1104 Northern Virginia Transportation Commission and to the governing bodies of the political
1105 subdivisions located within the Zone which are parties to commitments for participation in the
1106 financing of the Authority and shall be made available for public distribution.

1107 (b) The financial transactions of the Board shall be subject to audit by the United States
1108 General Accounting Office in accordance with the principles and procedures applicable to
1109 commercial corporate transactions and under such rules and regulations as may be prescribed by
1110 the Comptroller General of the United States. The audit shall be conducted at the place or places
1111 where the accounts of the Board are kept.

1112 (c) Any Director, officer or employee who shall refuse to give all required assistance and
1113 information to the accountants selected by the Board or who shall refuse to submit to them for
1114 examination such books, documents, records, files, accounts, papers, things or property as may
1115 be requested shall, in the discretion of the Board, forfeit his office.

1116 Reports

1117 71. The Board shall make and publish an annual report on its programs, operations, and
1118 finances, which shall be distributed in the same manner provided by § 70 of this Article XVI for

1119 the report of annual audit. It may also prepare, publish and distribute such other public reports
1120 and informational materials as it may deem necessary or desirable.

1121 Insurance

1122 72. The Board may self-insure or purchase insurance and pay the premiums therefor
1123 against loss or damage to any of its properties; against liability for injury to persons or property;
1124 and against loss of revenue from any cause whatsoever. Such insurance coverage shall be in
1125 such form and amount as the Board may determine, subject to the requirements of any
1126 agreement arising out of insurance of bonds or other obligations by the Authority.

1127 Contracting and Purchasing

1128 73. (a) (1) Except as provided in subsections (b), (c), and (f) of this section, and except
1129 in the case of procurement procedures otherwise expressly authorized by statute, the Authority
1130 in conducting a procurement of property, services, or construction shall:

1131 (A) obtain full and open competition through the use of competitive procedures in
1132 accordance with the requirements of this Section; and

1133 (B) use the competitive procedure or combination of competitive procedures that is best
1134 suited under the circumstances of the procurement.

1135 (2) In determining the competitive procedure appropriate under the circumstances, the
1136 Authority shall:

1137 (A) solicit sealed bids if:

1138 (i) time permits the solicitation, submission, and evaluation of sealed bids;

1139 (ii) the award will be made on the basis of price and other price-related factors;

1140 (iii) it is not necessary to conduct discussions with the responding sources about their
1141 bids; and

1142 (iv) there is a reasonable expectation of receiving more than one sealed bid; or

1143 (B) request competitive proposals if sealed bids are not appropriate under clause (A) of
1144 this paragraph.

1145 (b) The Authority may provide for the procurement of property, services, or construction
1146 covered by this Section using competitive procedures but excluding a particular source in order
1147 to establish or maintain an alternative source or sources of supply for that property, service, or
1148 construction if the Authority determines that excluding the source would increase or maintain
1149 competition and would likely result in reduced overall costs for procurement of property,
1150 services, or construction.

1151 (c) The Authority may use procedures other than competitive procedures if:

1152 (1) the property, services, or construction needed by the Authority is available from only
1153 one responsible source and no other type of property, services, or construction will satisfy the
1154 needs of the Authority; or

1155 (2) the Authority's need for the property, services, or construction is of such an unusual
1156 and compelling urgency that the Authority would be seriously injured unless the Authority
1157 limits the number of sources from which it solicits bids or proposals; or

1158 (3) the Authority determines that it is necessary in the public interest to use procedures
1159 other than competitive procedures in the particular procurement; or

1160 (4) the property or services needed can be obtained through federal or other
1161 governmental sources at reasonable prices.

1162 (d) For the purpose of applying subsection (c) (1) of this Section:

1163 (1) in the case of a contract for property, services, or construction to be awarded on the
1164 basis of acceptance of an unsolicited proposal, the property, services, or construction shall be
1165 deemed to be available from only one responsible source if the source has submitted an
1166 unsolicited proposal that demonstrates a concept:

1167 (A) that is unique and innovative or, in the case of a service, for which the source
1168 demonstrates a unique capability to provide the service; and

1169 (B) the substance of which is not otherwise available to the Authority and does not
1170 resemble the substance of a pending competitive procurement.

1171 (2) in the case of a follow-on contract for the continued development or production of a
1172 major system or highly specialized equipment or the continued provision of highly specialized
1173 services, the property, services, or construction may be deemed to be available from only the
1174 original source and may be procured through procedures other than competitive procedures if it
1175 is likely that award to a source other than the original source would result in:

1176 (A) substantial duplication of cost to the Authority that is not expected to be recovered
1177 through competition; or

1178 (B) unacceptable delays in fulfilling the Authority's needs.

1179 (e) If the Authority uses procedures other than competitive procedures to procure
1180 property, services, or construction under subsection (c) (2) of this Section, the Authority shall
1181 request offers from as many potential sources as is practicable under the circumstances.

1182 (f) (1) To promote efficiency and economy in contracting, the Authority may use
1183 simplified acquisition procedures for purchases of property, services and construction.

1184 (2) For the purposes of this subsection, simplified acquisition procedures may be used
1185 for purchases for an amount that does not exceed the simplified acquisition threshold adopted by
1186 the federal government.

1187 (3) A proposed purchase or contract for an amount above the simplified acquisition
1188 threshold may not be divided into several purchases or contracts for lesser amounts in order to
1189 use the procedures under paragraph (1) of this subsection.

1190 (4) In using simplified acquisition procedures, the Authority shall promote competition
1191 to the maximum extent practicable.

1192 (g) The Board shall adopt policies and procedures to implement this Section. The
1193 policies and procedures shall provide for publication of notice of procurements and other actions
1194 designed to secure competition where competitive procedures are used.

1195 (h) The Authority in its discretion may reject any and all bids or proposals received in
1196 response to a solicitation.

1197 Rights-of-Way

1198 74. The Board is authorized to locate, construct and maintain any of its transit and
1199 related facilities in, upon, over, under or across any streets, highways, freeways, bridges and any
1200 other vehicular facilities, subject to the applicable laws governing such use of such facilities by
1201 public agencies. In the absence of such laws, such use of such facilities by the Board shall be
1202 subject to such reasonable conditions as the highway department or other affected agency of a
1203 Signatory party may require; provided, however, that the Board shall not construct or operate
1204 transit or related facilities upon, over, or across any parkways or park lands without the consent
1205 of, and except upon the terms and conditions required by, the agency having jurisdiction with
1206 respect to such parkways and park lands, but may construct or operate such facilities in a
1207 subway under such parkways or park lands upon such reasonable terms and conditions as may
1208 be specified by the agency having jurisdiction with respect thereto.

1209 Compliance with Laws, Regulations and Ordinances

1210 75. The Board shall comply with all laws, ordinances and regulations of the Signatories
1211 and political subdivisions and agencies thereof with respect to use of streets, highways and all
1212 other vehicular facilities, traffic control and regulation, zoning, signs and buildings.

1213 Police Security

1214 76. (a) The Authority is authorized to establish and maintain a regular police force, to be
1215 known as the Metro Transit Police, to provide protection for its patrons, personnel, and Transit
1216 facilities. The Metro Transit Police shall have the powers and duties and shall be subject to the
1217 limitations set forth in this section. It shall be composed of both uniformed and plain clothes
1218 personnel and shall be charged with the duty of enforcing the laws of the Signatories, and the
1219 laws, ordinances, and regulations of the political subdivisions thereof in the Transit Zone, and
1220 the rules and regulations of the Authority. The jurisdiction of the Metro Transit Police shall
1221 include all the Transit facilities (including bus stops) owned, controlled, or operated by the
1222 Authority, but this restriction shall not limit the power of the Metro Transit Police to make
1223 arrests in the Transit Zone for violations committed upon, to, or against such Transit facilities
1224 committed from within or outside such Transit facilities while in hot or close pursuit, or to

1225 execute traffic citations and criminal process in accordance with subsection (c) below. The
1226 members of the Metro Transit Police shall have concurrent jurisdiction in the performance of
1227 their duties with the duly constituted law-enforcement agencies of the Signatories and of the
1228 political subdivisions thereof in which any Transit facility of the Authority is located or in
1229 which the Authority operates any Transit service. On-duty Metro Transit Police officers are
1230 authorized to make arrests off of Transit facilities within the Transit Zone when immediate
1231 action is necessary to protect the health, safety, welfare or property of an individual from actual
1232 or threatened harm or from an unlawful act. Nothing contained in this section shall either relieve
1233 any Signatory or political subdivision or agency thereof from its duty to provide police, fire, and
1234 other public safety service and protection, or limit, restrict, or interfere with the jurisdiction of
1235 or the performance of duties by the existing police, fire, and other public safety agencies. For
1236 purposes of this section, "bus stop" means that area within 150 feet of a MetroBus bus stop sign,
1237 excluding the interior of any building not owned, controlled or operated by the Washington
1238 Metropolitan Area Transit Authority.

1239 (b) A member of the Metro Transit Police shall have same powers, including the power
1240 of arrest, and shall be subject to the same limitations, including regulatory limitations, in the
1241 performance of his duties as a member of the duly constituted police force of the political
1242 subdivision in which the Metro Transit Police member is engaged in the performance of his
1243 duties. A member of the Metro Transit Police is authorized to carry and use only such weapons,
1244 including handguns, as are issued by the Authority. A member of the Metro Transit Police is
1245 subject to such additional limitations in the use of weapons as are imposed on the duly
1246 constituted police force for the political subdivision in which he is engaged in the performance
1247 of his duties.

1248 (c) Members of the Metro Transit Police shall have power to execute on the Transit
1249 facilities owned, controlled, or operated by the Authority any traffic citation or any criminal
1250 process issued by any court of any Signatory or of any political subdivision of a Signatory, for
1251 any felony, misdemeanor, or other offense against the laws, ordinances, rules, or regulations

1252 specified in subsection (a). With respect to offenses committed upon, to, or against the Transit
1253 facilities owned, controlled, or operated by the Authority, the Metro Transit Police shall have
1254 power to execute criminal process within the Transit Zone.

1255 (d) Upon the apprehension or arrest of any person by a member of the Metro Transit
1256 Police pursuant to the provisions of subsection (b), the officer, as required by the law of the
1257 place of apprehension or arrest, shall either issue a summons or a citation against the person,
1258 book the person, or deliver the person to the duly constituted police or judicial officer of the
1259 Signatory or political subdivision where the apprehension or arrest is made, for disposition as
1260 required by law.

1261 (e) The Authority shall have the power to adopt rules and regulations for the safe,
1262 convenient, and orderly use of the Transit facilities owned, controlled, or operated by the
1263 Authority, including the payment and the manner of the payment of fares or charges therefor,
1264 the protection of the Transit facilities, the control of traffic and parking upon the Transit
1265 facilities, and the safety and protection of the riding public. In the event that any such rules and
1266 regulations contravene the laws, ordinances, rules, or regulations of a Signatory or any political
1267 subdivision thereof which are existing or subsequently enacted, these laws, ordinances, rules, or
1268 regulations of the Signatory or the political subdivision shall apply and the conflicting rule or
1269 regulation, or portion thereof, of the Authority shall be void within the jurisdiction of that
1270 Signatory or political subdivision. In all other respects the rules and regulations of the Authority
1271 shall be uniform throughout the Transit Zone. The rules and regulations established under this
1272 subsection shall be adopted by the Board following public hearings held in accordance with
1273 Section 62 (c) and (d) of this Compact. The final regulation shall be published in a newspaper of
1274 general circulation within the Zone at least 15 days before its effective date. Any person
1275 violating any rule or regulation of the Authority shall be subject to arrest and, upon conviction
1276 by a court of competent jurisdiction, shall pay a fine of not more than two hundred fifty dollars
1277 (\$250) and costs. Criminal violations of any rule or regulation of the Authority shall be
1278 prosecuted by the Signatory or political subdivision in which the violation occurred, in the same

1279 manner by which violations of law, ordinances, rules and regulations of the Signatory or
1280 political subdivisions are prosecuted.

1281 (f) With respect to members of the Metro Transit Police, the Authority shall:

1282 (1) Establish classifications based on the nature and scope of duties, and fix and provide
1283 for their qualification, appointment, removal, tenure, term, compensation, pension, and
1284 retirement benefits;

1285 (2) Provide for their training and, for this purpose, the Authority may enter into contracts
1286 or agreements with any public or private organization engaged in police training, and this
1287 training and the qualifications of the uniformed and plain clothes personnel shall at least equal
1288 the requirements of each Signatory and of the political subdivisions therein in the Transit Zone
1289 for their personnel performing comparable duties; and

1290 (3) Prescribe distinctive uniforms to be worn.

1291 (g) The Authority shall have the power to enter into agreements with the Signatories, the
1292 political subdivisions thereof in the Transit Zone, and public safety agencies located therein,
1293 including those of the Federal Government, for the delineation of the functions and
1294 responsibilities of the Metro Transit Police and the duly constituted police, fire, and other public
1295 safety agencies, and for mutual assistance.

1296 (h) Before entering upon the duties of office, each member of the Metro Transit Police
1297 shall take or subscribe to an oath or affirmation, before a person authorized to administer oaths,
1298 faithfully to perform the duties of that office.

1299 Exemption from Regulation

1300 77. Except as otherwise provided in this Title, any Transit service rendered by Transit
1301 facilities owned or controlled by the Authority and the Authority or any corporation, firm or
1302 association performing such transit service pursuant to an operating contract with the Authority,
1303 shall, in connection with the performance of such service, be exempt from all laws, rules,
1304 regulations and orders of the Signatories and of the United States otherwise applicable to such
1305 transit service and persons, except that laws, rules, regulations and orders relating to inspection

1306 of equipment and facilities, safety and testing shall remain in force and effect; provided,
1307 however, that the Board may promulgate regulations for the safety of the public and employees
1308 not inconsistent with the applicable laws, rules, regulations or orders of the Signatories and of
1309 the United States.

1310 Tax Exemption

1311 78. It is hereby declared that the creation of the Authority and the carrying out of the
1312 corporate purposes of the Authority is in all respects for the benefit of the people of the
1313 Signatory states and is for a public purpose and that the Authority and the Board will be
1314 performing an essential governmental function, including, without limitation, proprietary,
1315 governmental and other functions, in the exercise of the powers conferred by this Title.
1316 Accordingly, the Authority and the Board shall not be required to pay taxes or assessments upon
1317 any of the property acquired by it or under its jurisdiction, control, possession or supervision or
1318 upon its activities in the operation and maintenance of any Transit facilities or upon any
1319 revenues therefrom and the property and income derived therefrom shall be exempt from all
1320 federal, State, District of Columbia, municipal and local taxation. This exemption shall include,
1321 without limitation, all motor vehicle license fees, sales taxes and motor fuel taxes.

1322 Reduced Fares

1323 79. The District of Columbia, the Northern Virginia Transportation District, the
1324 Washington Suburban Transit District and the component governments thereof, may enter into
1325 contracts or agreements with the Authority to make equitable payments for fares lower than
1326 those established by the Authority pursuant to the provisions of Article XIII hereof for any
1327 specified class or category of riders.

1328 Liability for Contracts and Torts

1329 80. The Authority shall be liable for its contracts and for its torts and those of its
1330 Directors, officers, employees and agents committed in the conduct of any proprietary function,
1331 in accordance with the law of the applicable Signatory (including rules on conflict of laws), but
1332 shall not be liable for any torts occurring in the performance of a governmental function. The

1333 exclusive remedy for such breach of contracts and torts for which the Authority shall be liable,
1334 as herein provided, shall be by suit against the Authority. Nothing contained in this Title shall
1335 be construed as a waiver by the District of Columbia, Maryland, Virginia and the counties and
1336 cities within the Zone of any immunity from suit.

1337 Jurisdiction of Courts

1338 81. The United States District Courts shall have original jurisdiction, concurrent with the
1339 courts of Maryland, Virginia and the District of Columbia, of all actions brought by or against
1340 the Authority and to enforce subpoenas issued under this Title. Any such action initiated in a
1341 State or District of Columbia Court shall be removable to the appropriate United States District
1342 Court in the manner provided by Act of June 25, 1948, as amended (28 U.S.C. 1446).

1343 Condemnation

1344 82. (a) The Authority shall have the power to acquire by condemnation, whenever in its
1345 opinion it is necessary or advantageous to the Authority to do so, any real or personal property,
1346 or any interest therein, necessary or useful for the transit system authorized herein, except
1347 property owned by the United States, by a Signatory, or any political subdivision thereof,
1348 whenever such property cannot be acquired by negotiated purchase at a price satisfactory to the
1349 Authority.

1350 (b) Proceedings for the condemnation of property in the District of Columbia shall be
1351 instituted and maintained under the Act of December 23, 1963 (77 Stat. 577-581, D.C. Code
1352 1961, Supp. IV, Sections 1351-1368). Proceedings for the condemnation of property located
1353 elsewhere within the Zone shall be instituted and maintained, if applicable, pursuant to the
1354 provisions of the Act of August 1, 1888, as amended (25 Stat. 357, 40 U.S.C. 257) and the Act
1355 of June 25, 1948 (62 Stat. 935 and 937, 28 U.S.C. 1358 and 1403) or any other applicable act;
1356 provided, however, that if there is no applicable federal law, condemnation proceedings shall be
1357 in accordance with the provisions of the state law of the Signatory in which the property is
1358 located governing condemnation by the highway agency of such state. Whenever the words
1359 "real property," "realty," "land," "easement," "right-of-way," or words of similar meaning are

1360 used in any applicable federal or state law relating to procedure, jurisdiction and venue, they
1361 shall be deemed, for the purposes of this Title, to include any personal property authorized to be
1362 acquired hereunder.

1363 (c) Any award or compensation for the taking of property pursuant to this Title shall be
1364 paid by the Authority, and none of the Signatory parties nor any other agency, instrumentality or
1365 political subdivision thereof shall be liable for such award or compensation.

1366 Enlargement and Withdrawal; Duration

1367 83. (a) When advised in writing by the Northern Virginia Transportation Commission or
1368 the Washington Suburban Transit Commission that the geographical area embraced therein has
1369 been enlarged, the Board, upon such terms and conditions as it may deem appropriate, shall by
1370 resolution enlarge the Zone to embrace the additional area.

1371 (b) The duration of this Title shall be perpetual but any Signatory thereto may withdraw
1372 therefrom upon two years' written notice to the Board.

1373 (c) The withdrawal of any Signatory shall not relieve such Signatory, any transportation
1374 district, county or city or other political subdivision thereof from any obligation to the
1375 Authority, or inuring to the benefit of the Authority, created by contract or otherwise.

1376 Amendments and Supplements

1377 84. Amendments and supplements to this Title to implement the purposes thereof may
1378 be adopted by legislative action of any of the Signatory parties concurred in by all of the others.
1379 When one Signatory adopts an amendment or supplement to an existing Section of the Compact,
1380 that amendment or supplement shall not be immediately effective, and the previously enacted
1381 provision or provisions shall remain in effect in each jurisdiction until the amendment or
1382 supplement is approved by the other Signatories and is consented to by Congress.

1383 Construction and Severability

1384 85. The provisions of this Title and of the agreements thereunder shall be severable and
1385 if any phrase, clause, sentence or provision of this Title or any such agreement is declared to be
1386 unconstitutional or the applicability thereof to any Signatory party, political subdivision or

1387 agency thereof is held invalid, the constitutionality of the remainder of this Title or any such
1388 agreement and the applicability thereof to any other Signatory party, political subdivision or
1389 agency thereof or circumstance shall not be affected thereby. It is the legislative intent that the
1390 provisions of this Title be reasonably and liberally construed.

1391 Effective Date; Execution

1392 86. This Title shall be adopted by the Signatories in the manner provided by law therefor
1393 and shall be signed and sealed in four duplicate original copies. One such copy shall be filed
1394 with the Secretary of State of each of the Signatory parties or in accordance with laws of the
1395 State in which the filing is made, and one copy shall be filed and retained in the archives of the
1396 Authority upon its organization. This Title shall become effective ninety days after the
1397 enactment of concurring legislation by or on behalf of the District of Columbia, Maryland and
1398 Virginia and consent thereto by the Congress and all other acts or actions have been taken,
1399 including the signing and execution of the Title by the Governors of Maryland and Virginia and
1400 the Mayor and Council of the District of Columbia. (1966, c. 2; 1969, Ex. Sess., c. 21; 1970, c.
1401 590; 1972, c. 571; 1973, c. 508; 1974, c. 576; 1977, c. 592; 1981, c. 378; 1984, c. 610; 1987, c.
1402 112; 1995, c. 150; 1997, c. 736; 2009, cc. 771, 828)

1 CHAPTER.

2 METROPOLITAN PLANNING ORGANIZATIONS.

3 **Drafting note: Sections dealing with metropolitan planning organizations are**
4 **relocated from existing Article 15 (Miscellaneous Provisions) of Chapter 1 of Title 33.1 to**
5 **this new Chapter __ in Subtitle IV.**

6 § ~~33.1-223.2:23~~ 33.2-XXX. Metropolitan ~~planning organizations~~ Planning
7 Organizations; membership.

8 Any metropolitan planning organization may vote, upon the prior written authorization
9 of the Governor, to have its membership expanded to include members of the House of
10 Delegates, as selected by the Speaker of the House of Delegates, and members of the Senate, as
11 selected by the Senate Committee on Rules.

12 **Drafting note: Technical changes.**

13 § ~~33.1-223.2:25~~ 33.2-XXX. Transportation planning duties and responsibilities of
14 Metropolitan Planning Organizations.

15 The Metropolitan Planning Organizations (MPOs) of ~~Virginia the Commonwealth~~ shall
16 be responsible for the development of regional long-range transportation plans for the regions
17 they represent in accordance with federal regulation. Each such long-range plan shall include a
18 fiscally constrained list of all multimodal transportation projects, including those managed at the
19 statewide level either by the ~~Virginia~~ Department of Transportation or the ~~Virginia~~ Department
20 of Rail and Public Transportation. The purpose of the regional long-range transportation plan is
21 to comply with federal regulations and provide the MPOs and the region a source of candidate
22 projects for ~~the MPOs'~~ use by the MPOs in developing regional Transportation Improvement
23 Programs (TIPs) and serving as an input to assist the Commonwealth with the development of
24 ~~the statewide Long-Range Plan~~ Virginia's Statewide Multimodal Long-Range Transportation
25 Plan (VTrans).

26 The MPOs shall ~~develop~~:

27 1. Develop amendments for their regional TIPs in accordance with federal regulations;

28 ~~The MPOs shall be required to coordinate~~ 2. Coordinate planning and programming
29 actions with those of the Commonwealth and duly established public transit agencies in
30 accordance with federal regulations;

31 ~~The MPOs shall examine~~ 3. Examine the structure and cost of transit operations within
32 the regions they represent and incorporate the results of these inquiries ~~in~~ into their plans and
33 ~~shall~~ endorse long-range plans for assuring maximum utilization and integration of mass
34 transportation facilities throughout the Commonwealth; and

35 ~~The MPOs shall conduct~~ 4. Conduct a public involvement process focused on projects
36 and topics that will best enable them to develop and approve ~~Long Range Transportation Plans~~
37 ~~(L RTPs)~~ long-range transportation plans that shall be submitted for approval by their board and
38 forwarded to the Commonwealth Transportation Board and updated as required by federal
39 regulations.

40 **Drafting note: Technical changes.**

41 § ~~33.1-23.03:01~~ 33.2-XXX. Distribution of certain federal funds.

42 Metropolitan Planning Organizations (MPOs) as defined under 23 U.S.C. § 134 and
43 ~~Section §~~ 8 of the Federal Transit Act shall be authorized to issue contracts for studies and to
44 develop and approve transportation plans and improvement programs to the full extent
45 permitted by federal law.

46 The Commonwealth Transportation Board ~~(CTB)~~, Virginia the Department of
47 Transportation, and the Department of Rail and Public Transportation ~~are directed to~~ shall
48 develop and implement a decision-making process that provides MPOs and regional
49 transportation planning bodies a meaningful opportunity for input into transportation decisions
50 that impact the transportation system within their boundaries. Such a process shall provide the
51 MPOs and regional transportation planning bodies with the ~~CTB Board's~~ priorities for
52 development of the Six-Year Improvement Program developed pursuant to § 33.2-XXX and an
53 opportunity for them to identify their regional priorities for consideration.

54 **Drafting note: Technical changes.**

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 14.~~

~~VIRGINIA COALFIELD COALITION AUTHORITY.~~

Drafting note: Existing Chapter 14 (§ 33.1-426 et seq.) of Title 33.1 is recommended for repeal because it is obsolete. No appointment has been made to this Authority, nor is there any evidence of its existence with the Secretary of the Commonwealth or otherwise.

~~§ 33.1-426. Virginia Coalfield Coalition Authority created.~~

~~The Virginia Coalfield Coalition Authority, hereinafter referred to as "the Authority," is created as a body corporate and as a political subdivision of the Commonwealth. The Authority is hereby constituted a public instrumentality exercising public and essential governmental functions, and the exercise by the Authority of the powers conferred by this chapter shall be deemed and held to be the performance of an essential governmental function of the Commonwealth.~~

~~§ 33.1-427. Board of Commissioners; membership; terms; compensation and expenses; chairman and vice chairman; quorum; employees, agents, etc.~~

~~All powers, rights and duties conferred by this chapter or other provisions of law upon the Authority shall be exercised by the Board of Commissioners of the Virginia Coalfield Coalition Authority. The Board of Commissioners, hereafter referred to as "the Board," shall consist of eleven members as follows: the State Treasurer; the Chairman of the Commonwealth Transportation Board; two members each of the local governing bodies of the Counties of Wise, Buchanan, and Dickenson, appointed by the Governor and subject to confirmation by the General Assembly, who shall serve for terms of four years each; and three additional members, appointed by the Governor and subject to confirmation by the General Assembly, who shall serve at the pleasure of the Governor for terms of four years each. Appointments to fill vacancies other than by expiration of term shall be made for the unexpired terms. No member appointed by the Governor shall be eligible to serve more than two successive terms.~~

~~Of the initial appointments to be made by the Governor, three shall be appointed for two-year terms, three shall be appointed for three-year terms, and three shall be appointed for~~

~~four year terms. The State Treasurer and the Chairman of the Commonwealth Transportation Board shall serve terms on the Board coincident with their terms in office.~~

~~The Governor shall designate the chairman of the Commonwealth Transportation Board, or his designee, as chairman of the Authority. The chairman shall be the chief executive officer of the Authority and shall receive such compensation as the Governor shall fix. The remaining members of the Board shall receive such compensation as provided for by law.~~

~~The chairman shall sign and execute all vouchers for the disbursement of funds belonging to the Authority upon authorization by the Board. The Board shall elect one of its members as vice chairman who shall exercise the powers of the chairman when so directed by the chairman. Six members of the Board shall constitute a quorum for the transaction of all business of the Authority. The Board may also elect from its membership a secretary and prescribe his powers and duties.~~

~~The Board may employ or retain such employees, agents, financial advisers and attorneys as it may deem necessary and fix their compensation.~~

~~§ 33.1-428. Limited purpose of authority; Virginia Coalfield Expressway Corridor.~~

~~The General Assembly declares it to be in the public interest that the economic development needs and economic growth potential of Southwestern Virginia be addressed by the construction of an adequate, modern, safe, and efficient highway system, the Virginia Coalfield Expressway Corridor, generally along Virginia's Southwestern boundary, from at or near the Kentucky border in the County of Wise to at or near the West Virginia border in the County of Buchanan. The Authority is created and shall be vested with powers solely to provide for the construction of this highway system, hereafter referred to as "the Program," with the approval of the Commonwealth Transportation Board.~~

~~§ 33.1-429. General powers.~~

~~The Authority is vested with the powers of a body corporate, including, without limitation, the power to:~~

~~1. Sue and be sued;~~

- 55 ~~2. Make contracts;~~
- 56 ~~3. Adopt and use a common seal, and alter such seal at its pleasure;~~
- 57 ~~4. Procure insurance, participate in insurance plans, and provide self insurance. The~~
58 ~~purchase of insurance, participation in an insurance plan, or the creation of a self insurance plan~~
59 ~~by the Authority shall not be deemed a waiver or relinquishment of any sovereign immunity to~~
60 ~~which the Authority or its officers, directors, employees, or agents are otherwise entitled;~~
- 61 ~~5. Develop policies and procedures generally applicable to the procurement of goods,~~
62 ~~services and construction based on competitive principles; and~~
- 63 ~~6. Use any legal means to carry out its limited purpose.~~

64

#

VIRGINIA ADMINISTRATIVE CODE

Titles 1 to 6



2013 Cumulative Supplementary Pamphlet

This 2013 supplementary pamphlet replaces the 2013
Spring Supplements to the main volumes.

THOMSON REUTERS
WESTLAW

VIRGINIA ADMINISTRATIVE CODE—2013

Titles
1 to 6

XXXXXXXX



1

VIRGINIA ADMINISTRATIVE CODE

Titles 1 to 6



VIRGINIA ADMINISTRATIVE CODE—2013

Titles
1 to 6

XXXXXXXX



THOMSON REUTERS
WESTLAW