

**TITLE 33.2 REVISION DRAFT, CHAPTER 7 (VDRPT)**

1 CHAPTER ~~10.1~~ 7.

2 ~~DEPARTMENT OF~~ RAIL AND PUBLIC TRANSPORTATION.

3 **Drafting note: Existing Chapter 10 of Title 33.1 is now Chapter X of proposed Title**  
4 **33.2. The name of the chapter is broadened to include items related to rail and public**  
5 **transportation that are not directly related to the Department of Rail and Public**  
6 **Transportation.**

7 [§ ~~33.1-391.1~~ 33.2-xxx.](#)

8 Upon establishment of the Department of Rail and Public Transportation, the  
9 Department of Rail and Public Transportation shall enter into an agreement with the Department  
10 of Transportation and the Commonwealth Transportation Board, to be signed by the Secretary  
11 of Transportation, the Commonwealth Transportation Commissioner, and the Director of the  
12 Department of Rail and Public Transportation, providing that administrative, research, policy  
13 analysis, planning, right-of-way acquisition, and such other services as are currently provided by  
14 the Department of Transportation shall continue to be provided to the Department of Rail and  
15 Public Transportation under the same arrangements as are currently provided to the Directorate  
16 of Public Transportation.

17 **Drafting note: This section is currently not set out but is retained per the**  
18 **Department of Rail and Public Transportation.**

19 [§ 33.2-xxx. Definitions.](#)

20 [As used in this chapter, unless the context requires a different meaning:](#)

21 ["Department" means the Department of Rail and Public Transportation.](#)

22 ["Director" means the Director of the Department of Rail and Public Transportation.](#)

23 **Drafting note: This proposed new section contains definitions pertinent to this**  
24 **chapter.**

25 | § ~~33.1-391.2~~ 33.2-xxx. Department of Rail and Public Transportation created;  
26 | appointment of Director.

27 | There is hereby created a Department of Rail and Public Transportation reporting to the  
28 | Secretary of Transportation and subject to the policy oversight of the Commonwealth  
29 | Transportation Board. The Department shall be headed by a Director, ~~hereinafter referred to in~~  
30 | ~~this title as "Director,"~~ who shall be appointed by and serve at the pleasure of the Governor. The  
31 | Director shall serve as a nonvoting ~~ex officio~~ ex officio member of the ~~Commonwealth~~  
32 | ~~Transportation~~ Board and any committee of the Board dealing with passenger and freight rail,  
33 | transportation demand management, ridesharing, and public transportation issues.

34 | **Drafting note: Technical changes are made, including the reference to "Director"**  
35 | **which is now included in the preceding definitions section.**

36 | § ~~33.1-391.3~~ 33.2-701. Powers and duties of the Director.

37 | Except such powers as are conferred by law upon the ~~Commonwealth Transportation~~  
38 | Board, or such services as are performed by the Department of Transportation pursuant to law,  
39 | the Director ~~of the Department of Rail and Public Transportation~~ shall have the power to do all  
40 | acts necessary or convenient for establishing, maintaining, improving, and promoting public  
41 | transportation, transportation demand management, ridesharing, and passenger and freight rail  
42 | transportation in the Commonwealth and to procure architectural and engineering services for  
43 | rail and public transportation projects as specified in § 2.2-4301.

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

45 | ~~§ 33.1-391.3:1.~~

46 | **Drafting note: Repealed by Acts 2011, cc. 86, 594 and 681, cl. 2.**

47 | § ~~33.1-391.4~~ 33.2-702. General powers of the Department.

48 | The Department shall have the following general powers:

49 | 1. To accept grants from the United States government and agencies and  
50 | instrumentalities thereof and any other source. To these ends, the Department shall have the

51 power to comply with such conditions and execute such agreements as may be necessary,  
52 convenient, or desirable;

53 2. To make and enter into all contracts and agreements necessary or incidental to the  
54 performance of its duties and the execution of its powers under this chapter, including ~~but not~~  
55 ~~limited to~~, contracts with the United States government, other states, agencies and governmental  
56 subdivisions of Virginia, and other appropriate public and private entities;

57 3. To assist other appropriate entities, public or private, in the implementation and  
58 improvement of passenger and freight rail, transportation demand management, ridesharing, and  
59 public transportation services and the retention of rail corridors for public purposes;

60 4. To represent and promote the Commonwealth's interests in passenger and freight rail,  
61 transportation demand management, ridesharing, and public transportation; and

62 5. To acquire by any means whatsoever, lease, improve, and construct railway lines,  
63 passenger and freight rail, transportation demand management, ridesharing, and public  
64 transportation facilities; and passenger and freight rail, transportation demand management,  
65 ridesharing, and public transportation equipment determined to be for the common good of the  
66 Commonwealth or a region of the Commonwealth and ~~to~~ assist other appropriate entities in the  
67 implementation and improvement of passenger and freight rail, transportation demand  
68 management, ridesharing, and public transportation services and the retention of rail corridors  
69 for public purposes.

70 **Drafting note: Technical changes are made including removing the language "but**  
71 **not limited to" per the definition of "includes" in § 1-218.**

72 § ~~33.1-391.5~~ 33.2-703. Responsibilities of Department.

73 The Department shall have the following responsibilities:

74 1. Determine present and future needs for, and economic feasibility of providing, public  
75 transportation, transportation demand management, and ridesharing facilities and services and  
76 the retention, improvement, and addition of passenger and freight rail transportation in the  
77 Commonwealth;

78           2. Formulate and implement plans and programs for the establishment, improvement,  
79 development, and coordination of public transportation, transportation demand management,  
80 and ridesharing facilities and services, and the retention and improvement of passenger and  
81 freight rail transportation services and corridors in the Commonwealth, and coordinate  
82 transportation demand management and innovative technological transportation initiatives with  
83 the Department of Transportation;

84           3. Coordinate with the Department of Transportation in the conduct of research, policy  
85 analysis, and planning for the rail and public transportation modes as may be appropriate to  
86 ensure the provision of effective, safe, and efficient public transportation and passenger and  
87 freight rail services in the Commonwealth;

88           4. Develop uniform financial and operating data on and criteria for evaluating all public  
89 transportation activities in the Commonwealth, develop specific methodologies for the  
90 collection of such data by public transit operators, regularly and systematically verify such data  
91 by means of financial audits and periodic field reviews of operating data collection  
92 methodologies, and develop such other information as may be required to evaluate the  
93 performance and improve the economy or efficiency of public transit or passenger and freight  
94 rail operations, transportation demand management programs, and ridesharing in the  
95 Commonwealth;

96           5. Compile and maintain an up-to-date inventory of all abandoned railroad corridors in  
97 the Commonwealth abandoned after January 1, 1970;

98           6. Provide training and other technical support services to transportation operators and  
99 ridesharing coordinators as may be appropriate to improve public transportation, ridesharing,  
100 and passenger and freight rail services;

101           7. Maintain liaison with state, local, district, and federal agencies or other entities,  
102 private and public, having responsibilities for passenger and freight rail, transportation demand  
103 management, ridesharing, and public transportation programs;

104 8. Receive, administer, and allocate all planning, operating, capital, and any other grant  
105 programs from the Federal Transit Administration, the Federal Railroad Administration, the  
106 Federal Highway Administration, and other agencies of the United States government for public  
107 transportation, passenger and freight rail transportation, transportation demand management,  
108 and ridesharing purposes with approval of the Board and ~~to~~ comply with all conditions attendant  
109 thereto;

110 9. Administer all state grants for public transportation, rail transportation, ridesharing,  
111 and transportation demand management purposes with approval of the Board;

112 10. Promote the use of public transportation, transportation demand management,  
113 ridesharing, and passenger and freight rail services to improve the mobility of Virginia's citizens  
114 and the transportation of goods;

115 11. Represent the Commonwealth on local, regional, and national agencies, industry  
116 associations, committees, task forces, and other entities, public and private, having  
117 responsibility for passenger and freight rail, transportation demand management, ridesharing,  
118 and public transportation;

119 12. Represent the Commonwealth's interests in passenger and freight rail, transportation  
120 demand management, ridesharing, and public transportation and coordinate with the Department  
121 of Transportation in the planning, location, design, construction, implementation, monitoring,  
122 evaluation, purchase, and rehabilitation of facilities and services that affect or are used by  
123 passenger and freight rail, transportation demand management, ridesharing, or public  
124 transportation;

125 13. Coordinate with the State Corporation Commission on all matters dealing with rail  
126 safety inspections and rail regulations ~~which~~ that fall within its purview;

127 14. Prepare and review state legislation and Commonwealth recommendations on federal  
128 legislation and regulations as directed by the Secretary of Transportation;

129 15. Promote public transportation, ridesharing, and passenger and freight rail safety; and

130           16. Ensure the safety of rail fixed guideway transit systems within the Commonwealth  
131 and carry out state safety and security oversight responsibilities for rail fixed guideway transit  
132 systems as required by the Federal Transit Administration and federal law. For any rail fixed  
133 guideway transit system operated within the Commonwealth pursuant to an interstate compact,  
134 the Department shall perform its oversight responsibilities in accordance with the interstate  
135 compact governing the operation of such system and any applicable federal law.

136           **Drafting note: Technical changes.**

137           § ~~33.1-221.1:1~~ 33.2-704. Fund for construction of industrial access railroad tracks.

138           A. The General Assembly declares it to be in the public interest that access railroad  
139 tracks and facilities be constructed to certain industrial commercial sites where rail freight  
140 service is or may be needed by new or substantially expanded industry and that financial  
141 assistance be provided to areas seeking to furnish rail freight trackage between the normal limits  
142 of existing or proposed common carrier railroad tracks and facilities and the actual site of  
143 existing or proposed commercial or industrial buildings or facilities. This section is enacted in  
144 furtherance of these purposes and is intended to be comparable to the fund for access roads to  
145 economic development sites, established pursuant to § ~~33.1-221~~ 33.2-XXX.

146           B. The funding for this program shall be set forth in the ~~Appropriations Act~~  
147 appropriation act.

148           C. The Director ~~of the Department of Rail and Public Transportation~~ shall administer  
149 and expend or commit, subject to the approval of the ~~Commonwealth Transportation~~ Board,  
150 such funds for constructing, reconstructing, or improving industrial access railroad tracks and  
151 related facilities. The Director ~~of the Department of Rail and Public Transportation~~ may consult  
152 with the Commissioner of Agriculture and Consumer Services and the Chief Executive Officer  
153 of the Virginia Economic Development Partnership, or their designated representatives,  
154 concerning applications for funds. Funds shall be spent directly by the Director ~~of the~~  
155 ~~Department of Rail and Public Transportation~~ or by reimbursement of the local entities, private  
156 or public.

157 D. Funds may be used to construct, reconstruct, or improve part or all of the necessary  
158 tracks and related facilities on public or private property currently used or being developed,  
159 existent or prospective, for single industries or industrial subdivisions under firm contract or  
160 already constructed, including those subdivisions owned or promoted by railroad companies and  
161 others. Applications for funds must be approved by the local governing body.

162 E. In deciding whether to construct any such access track, the ~~Commonwealth~~  
163 ~~Transportation~~ Board shall consider the cost thereof in relation to prospective volume of rail  
164 traffic, capital investment, potential employment, and other economic and public benefits. The  
165 ~~Commonwealth Transportation~~ Board shall adopt procedures to encourage widespread use of  
166 the funds; shall limit allocation of funds so that no county, city, or town receives more than 50  
167 percent of the funds in any one fiscal year unless there are not sufficient applications prior to  
168 May 1 of each year to use the available funds; and shall consider the practices of the  
169 Department of Transportation in distributing funds for access roads to economic development  
170 sites under § ~~33.1-221~~ 33.2-XXX.

171 F. Tracks and facilities constructed with such funds shall be the property of the  
172 Commonwealth for the useful life of the project as determined by the Director ~~of the~~  
173 ~~Department of Rail and Public Transportation~~ and shall be made available for use by all  
174 common carriers using the railway system to which they connect. The landowners or using  
175 businesses shall, prior to the commitment of funds by the Director ~~of the Department of Rail and~~  
176 ~~Public Transportation~~, be contractually committed to the perpetual maintenance of such tracks  
177 and facilities so constructed and to the payment of any costs related to the future relocation or  
178 removal of such tracks and facilities.

179 **Drafting note: Technical changes.**

180 § ~~33.1-221.1:1.1~~ 33.2-705. Rail Enhancement Fund.

181 A. The General Assembly declares it to be in the public interest that railway preservation  
182 and development of railway transportation facilities are an important element of a balanced  
183 transportation system of the Commonwealth for freight and passengers and further declares it to

184 | be in the public interest that the retention, maintenance, improvement, and development of  
185 | freight and passenger railways are essential to the Commonwealth's continued economic  
186 | growth, vitality, and competitiveness in national and world markets, ~~and there.~~

187 | B. There is hereby created in the state treasury a special nonreverting fund to be known  
188 | as the Rail Enhancement Fund, hereafter referred to as "the Fund," which shall be considered a  
189 | special fund within the Transportation Trust Fund, ~~hereafter referred to as "the Fund."~~ ~~B.~~ The  
190 | Fund shall be established on the books of the Comptroller, and shall consist of dedications  
191 | pursuant to § 58.1-1741 and such funds from other sources as may be set forth in the  
192 | appropriation act and shall be paid into the state treasury and credited to the Fund. Interest  
193 | earned on moneys in the Fund shall remain in the Fund and be credited to it. Any moneys  
194 | remaining in the Fund, including interest thereon, at the end of each fiscal year shall not revert  
195 | to the general fund but shall remain in the Fund. Moneys in the Fund shall be used solely as  
196 | provided in this section. Expenditures and disbursements from the Fund shall be made by the  
197 | State Treasurer on warrants issued by the Comptroller upon written request signed by the  
198 | Director ~~of the Virginia Department of Rail and Public Transportation~~ or ~~the Director's~~ his  
199 | designee.

200 | C. The Director ~~of the Department of Rail and Public Transportation~~ shall administer  
201 | and expend or commit, subject to the approval of the ~~Commonwealth Transportation~~ Board, the  
202 | Fund for acquiring, leasing, ~~and/or or~~ improving railways or railroad equipment, rolling stock,  
203 | rights-of-way, or facilities, or assisting other appropriate entities to acquire, lease, or improve  
204 | railways or railroad equipment, rolling stock, rights-of-way, or facilities, for freight ~~and/or or~~  
205 | passenger rail transportation purposes whenever the Board ~~shall have~~ has determined that such  
206 | acquisition, lease, ~~and/or or~~ improvement is for the common good of a region of the  
207 | Commonwealth or the Commonwealth as a whole. Funds provided in this section may also be  
208 | used as matching funds for federal grants to support passenger or freight rail projects.

209 | D. Projects undertaken pursuant to this section shall be limited to those the  
210 | ~~Commonwealth Transportation~~ Board ~~shall have~~ has determined will result in public benefits to



211 ~~the Commonwealth or to~~ a region of the Commonwealth or the Commonwealth as a whole that  
212 are equal to or greater than the investment of funds under this section. Such public benefits shall  
213 include, ~~but not be limited to,~~ the impact of the project on traffic congestion, and environmental  
214 quality, and, whenever possible, give due consideration to passenger rail capacity on corridors  
215 identified by the ~~Commonwealth Transportation~~ Board that have existing or proposed passenger  
216 rail service. Such projects shall include a minimum of 30 percent cash or in-kind matching  
217 contribution from a private source, which may include a railroad, a regional authority, ~~or~~ a local  
218 government source, or a combination of such sources.

219 **Drafting note: Technical changes are made including removing the language "but**  
220 **not limited to" per the definition of "includes" in § 1-218.**

221 § ~~33.1-221.1:1.2~~ 33.2-706. Shortline Railway Preservation and Development Fund.

222 A. For the purposes of this section:

223 "Fund" means the Shortline Railway Preservation and Development Fund.

224 "Railway transportation support facilities" means facilities required for the loading,  
225 transfer, or additional track capacity to facilitate the shipment of goods by rail other than as  
226 provided for in § 33.2-XXX or 33.2-XXX.

227 "Shortline railway" means any Class II or Class III railroad as defined by the U.S.  
228 Surface Transportation Board.

229 B. The General Assembly declares it to be in the public interest that shortline railway  
230 preservation and development of railway transportation support facilities are important elements  
231 of a balanced transportation system of the Commonwealth for freight and passengers, and  
232 further declares it to be in the public interest that the retention, maintenance, and improvement  
233 of the shortline railway and development of railway transportation support facilities are essential  
234 to the Commonwealth's continued economic growth, vitality, and competitiveness in national  
235 and world markets, ~~and there.~~

236 C. There is hereby created in the state treasury a special nonreverting fund to be known  
237 as the Shortline Railway Preservation and Development Fund, ~~hereinafter in this section~~

238 ~~hereafter~~ referred to as "the Fund." ~~A "shortline railway," for the purposes of this section, shall~~  
239 ~~mean any Class II or Class III railroad as defined by the United States Surface Transportation~~  
240 ~~Board. "Railway transportation support facilities," for the purposes of this section, shall mean~~  
241 ~~facilities required for the loading, transfer, or additional track capacity to facilitate the shipment~~  
242 ~~of goods by rail other than as provided for in § 33.1-221.1:1 or 33.1-221.1:1.1. B.~~ The Fund  
243 shall be established on the books of the Comptroller and shall consist of such funds from such  
244 sources as shall be set forth in the general appropriation act and shall be paid into the state  
245 treasury and credited to the Fund. Interest earned on moneys in the Fund shall remain in the  
246 Fund and be credited to it. Any moneys remaining in the Fund, including interest thereon, at the  
247 end of each fiscal year shall not revert to the general fund but shall remain in the Fund. Moneys  
248 in the Fund shall be used solely as provided in this section. Expenditures and disbursements  
249 from the Fund shall be made by the State Treasurer on warrants issued by the Comptroller upon  
250 written request signed by the Director ~~of the Virginia Department of Rail and Public~~  
251 ~~Transportation~~ or ~~the Director's~~ his designee.

252 ~~C.~~D. To fulfill this purpose, there shall be funding set forth each year in the budget bill  
253 and appropriated by the General Assembly in the Rail Assistance Program of the Department ~~of~~  
254 ~~Rail and Public Transportation~~. These funds shall be used by the Department ~~of Rail and Public~~  
255 ~~Transportation~~ to administer a Shortline Railway Preservation and Development Program for  
256 the purposes described in subsection ~~A.~~B. Furthermore, the ~~Commonwealth Transportation~~  
257 Board shall include an annual allocation for such purpose in its allocation of transportation  
258 revenues.

259 ~~D.~~E. The Director ~~of the Department of Rail and Public Transportation~~ shall administer  
260 and expend or commit, subject to the approval of the ~~Commonwealth Transportation~~ Board, the  
261 Fund for acquiring, leasing, ~~and/or~~ or improving shortline railways and the development of  
262 railway transportation support facilities or assisting other appropriate entities to acquire, lease,  
263 or improve shortline railways and the development of railway transportation purposes whenever  
264 the Board ~~shall have~~ has determined that such acquisition, lease, ~~and/or~~ or improvement is for

265 the common good of a region of the Commonwealth or the Commonwealth as a whole. The  
266 Director ~~of the Department of Rail and Public Transportation~~ may consult with other agencies  
267 or their designated representatives concerning projects to be undertaken under this section.

268 ~~E.~~ F. Tracks and facilities constructed, and property and equipment purchased, with  
269 funds under this section shall be the property of the Commonwealth for the useful life of the  
270 project, as determined by the Director ~~of the Department of Rail and Public Transportation~~, and  
271 shall be made available for use by all common carriers using the railway system to which they  
272 connect under the trackage rights agreements between the parties. Projects undertaken pursuant  
273 to this section shall be limited to those of a region of the Commonwealth or the Commonwealth  
274 as a whole. Such projects shall include a minimum of ~~30%~~ 30 percent cash or in-kind matching  
275 contribution from a private source, which may include a railroad, a regional authority, private  
276 industry, ~~or~~ a local government source, or a combination of such sources. No single project shall  
277 be allocated more than ~~50%~~ 50 percent of total available funds.

278 **Drafting note: Technical changes.**

279 § ~~33.1-221.1:1.3~~ 33.2-707. Intercity Passenger Rail Operating and Capital Fund.

280 A. The General Assembly declares it to be in the public interest that developing and  
281 continuing intercity passenger rail operations and the development of rail infrastructure, rolling  
282 stock, and support facilities to support intercity passenger rail service are important elements of  
283 a balanced transportation system in the Commonwealth and further declares it to be in the public  
284 interest that the retention, maintenance, improvement, and development of intercity passenger  
285 rail-related infrastructure improvements and operations are essential to the Commonwealth's  
286 continued economic growth, vitality, and competitiveness in national and world markets.

287 B. There is hereby created in the state treasury a special nonreverting fund to be known  
288 as the Intercity Passenger Rail Operating and Capital Fund, hereafter referred to as "the Fund,"  
289 which shall be considered a special fund within the Transportation Trust Fund. The ~~Intercity~~  
290 ~~Passenger Rail Operating and Capital~~ Fund shall be established on the books of the Comptroller  
291 and shall consist of funds as may be set forth in the appropriation act and by allocation of funds

292 for operations and projects pursuant to this section by the ~~Commonwealth Transportation~~ Board  
293 in accordance with § ~~33.1-23.1~~ 33.2-XXX. Interest earned on moneys in the ~~Intercity Passenger~~  
294 ~~Rail Operating and Capital~~ Fund shall remain in the ~~Intercity Passenger Rail Operating and~~  
295 ~~Capital~~ Fund and be credited to it. Any moneys remaining in the ~~Intercity Passenger Rail~~  
296 ~~Operating and Capital~~ Fund, including interest thereon, at the end of each fiscal year shall not  
297 revert to the general fund but shall remain in the ~~Intercity Passenger Rail Operating and Capital~~  
298 Fund. Moneys in the ~~Intercity Passenger Rail Operating and Capital~~ Fund shall be used solely as  
299 provided in this section. Expenditures and disbursements from the ~~Intercity Passenger Rail~~  
300 ~~Operating and Capital~~ Fund shall be made by the State Treasurer on warrants issued by the  
301 Comptroller upon written request signed by the Director ~~of the Virginia Department of Rail and~~  
302 ~~Public Transportation~~ or his designee.

303 C. The Director ~~of the Virginia Department of Rail and Public Transportation~~ or his  
304 designee shall administer and expend or commit, subject to the approval of the ~~Commonwealth~~  
305 ~~Transportation~~ Board, the ~~Intercity Passenger Rail Operating and Capital~~ Fund to support the  
306 cost of operating intercity passenger rail service; acquiring, leasing, ~~and/or~~ or improving  
307 railways or railroad equipment, rolling stock, rights-of-way, or facilities; or assisting other  
308 appropriate entities to acquire, lease, or improve railways or railroad equipment, rolling stock,  
309 rights-of-way, or facilities for intercity passenger rail transportation purposes whenever the  
310 Board ~~shall have~~ has determined that such acquisition, lease, ~~and/or~~ or improvement is for the  
311 common good of a region of the Commonwealth or the Commonwealth as a whole. Funds  
312 provided in this section may also be used as matching funds for federal grants to support  
313 intercity passenger rail projects.

314 D. Capital projects including tracks and facilities constructed and property, equipment,  
315 and rolling stock purchased with funds under this section shall be the property of the  
316 Commonwealth for the useful life of the project, as determined by the Director ~~of the~~  
317 ~~Department of Rail and Public Transportation~~, and shall be made available for use by all  
318 intercity passenger rail operations and common carriers using the railway system to which they

319 connect under the trackage rights or operating agreements between the parties. Projects  
320 undertaken pursuant to this section shall be limited to those of a region of the Commonwealth or  
321 the Commonwealth as a whole. Such projects undertaken pursuant to this section shall not  
322 require a matching contribution; however, projects proposed with matching funds may receive  
323 more favorable consideration. Matching funds may be provided from any source except  
324 Commonwealth Transportation Fund revenues.

325 **Drafting note: Technical changes.**

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