

1 SUBTITLE II.

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

3 PUBLIC TRANSPORTATION.

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

14 CHAPTER 3.

15 HIGHWAY SYSTEMS.

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

19 Article ~~3~~ 1.

20 ~~The~~ Interstate System.

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

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

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

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

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

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

37 ~~The Commonwealth Transportation~~ Board may plan, designate, acquire, open, construct,
38 reconstruct, improve, maintain, discontinue, abandon₂ and regulate the use of the Interstate
39 System in the same manner in which it is now or may be authorized to plan, designate, acquire,
40 open, construct, reconstruct, improve, maintain, discontinue, abandon₂ and regulate the use of
41 the primary state highway system ~~of state highways~~. The Board may vacate, close₂ or change the
42 location of any highway or street ~~or public way~~ in the manner in which it is now authorized by
43 law to vacate, close₂ or change the location of a highway in the primary state highway system.
44 The Board ~~shall have~~ has any and all other authority and power relative to ~~such the~~ Interstate
45 System as is vested in it relative to highways in the primary state highway system ~~and shall~~
46 include, including the right to acquire by purchase, eminent domain, grant₂ or dedication title to
47 lands or rights-of-way for such interstate highways whether within or without the limits of any
48 city or town, and in addition thereto, ~~shall have~~ has such other power, control₂ and jurisdiction
49 necessary to comply with the provisions of the Federal-Aid Highway Act of 1956 and all acts
50 amendatory or supplementary thereto, all other provisions of law to the contrary
51 notwithstanding.

52 **Drafting note: Technical changes.**

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

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

67 **Drafting note: Technical changes.**

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

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

78 **Drafting note: Technical changes.**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

132 **Drafting note: Technical changes.**

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

135 A. For the purposes of this section:

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

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

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

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

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

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

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

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

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

166 A. For the purposes of this section:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

264 ~~§§ 33.1-26 through 33.1-30.~~

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

352 **Drafting note: Technical changes.**

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

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

363 **Drafting note: Technical changes.**

364 § ~~33.1-38~~.

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

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

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

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

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

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

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

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

405 ~~§ 33.1-40.~~

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

407 ~~§ 33.1-41.~~

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

515 ~~§§ 33.1-43., 33.1-43.1.~~

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

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

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

526 **Drafting note: Technical changes.**

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

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

531 **Drafting note: Technical changes.**

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

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

536 **Drafting note: Technical changes.**

537 Article ~~6~~ 3.

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

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

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

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

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

561 **Drafting note: Technical changes.**

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

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

567 **Drafting note: Technical changes.**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

636 **Drafting note: Technical changes.**

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

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

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

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

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

654 A. As used in this section:

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

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

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

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

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

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

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

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

689 **Technical changes are made.**

690 ~~§ 33.1-70.~~

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

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

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

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

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

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

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

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

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

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

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

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

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

765 **Drafting note: Technical changes.**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

887 ~~§ 33.1-71.~~

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

889 ~~§ 33.1-72.~~

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1045 **Drafting note: Technical changes.**

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

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

1048 ~~§ 33.1-75.1.~~

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

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

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

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

1063 **Drafting note: Technical changes.**

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

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

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

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

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

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

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

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

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

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

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

1125 **Drafting note: Technical changes.**

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

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

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

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

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

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

1148 **Drafting note: Technical changes.**

1149 ~~§§ 33.1-80., 33.1-81.~~

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

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

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

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

1168 ~~§ 33.1-83.~~

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

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

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

1174 **Drafting note: Technical changes.**

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

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

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

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

1194 **Drafting note: Technical changes.**

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

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

1202 **Drafting note: Technical changes.**

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

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

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

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

1221 Yes

1222 No"

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

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

1235 **Technical changes are made.**

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

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

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

1248 **Drafting note: Technical changes.**

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

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

1267 **Drafting note: Technical changes.**

1268 Article 4.

1269 The Urban Highway System.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1346 **Drafting note: Technical changes.**

1347 ~~§ 33.1-45.~~

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

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

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

1355 **Drafting note: Technical changes.**

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

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

1366 **Drafting note: Technical changes.**

1367 Article ~~1.1~~ 5.

1368 Allocation of Highway Funds.

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

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

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

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

1378 **Drafting note: Technical changes.**

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

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

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

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

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

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

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

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

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

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

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

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

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

1436 **Drafting note: Technical changes.**

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

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

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

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

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

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

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

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

1455 **Drafting note: Technical changes.**

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

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

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

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

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

1477 **Drafting note: Technical changes.**

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

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

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

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

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

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

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

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

1528 **Drafting note: Technical changes.**

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

1530 A. As used in this section:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1615 **Drafting note: Technical changes.**

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

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

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

1623 **Drafting note: Technical changes.**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1766 **Drafting note: Technical changes.**

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

1769 A. For the purposes of this section:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1925 **Drafting note: Technical changes.**

1926 ~~§ 33.1-23.5:2.~~

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

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

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

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

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

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

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

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

1957 **Drafting note: Technical changes.**