

1 | CHAPTER ~~2~~7.

## 2 | LOCAL AUTHORITY OVER HIGHWAYS.

3 | **Drafting note: Existing Chapter 2 of Title 33.1, Local Authority over Highways, is**  
4 | **retained here as proposed Chapter 7 with its two existing articles, and articles relating to**  
5 | **assumption of road debt by localities are added to this chapter.**

## 6 | Article 1.

7 | ~~Miscellaneous-General~~ Provisions.

8 | **Drafting note: Existing Article 1 is retained here.**

9 | § ~~33.1-224~~ 33.2-700. Transfer of ~~streets~~ highways, etc., from secondary state highway  
10 | system to local authorities.

11 | Whenever any ~~incorporated~~ town has a population of more than 3,500 inhabitants, all the  
12 | ~~roads,~~ streets, highways, causeways, bridges, landings, and wharves in such town ~~theretofore~~  
13 | ~~that were~~ incorporated within the secondary state highway system ~~of state highways~~ shall be  
14 | eliminated from such system and the control and jurisdiction over them shall be vested in the  
15 | local authorities. This section shall in no way affect the rights of such towns to receive the  
16 | benefits provided elsewhere in this title.

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

18 | § ~~33.1-225~~ 33.2-701. Levies.

19 | The ~~boards of supervisors or other~~ governing bodies of the several counties shall not  
20 | make any levy of county or district road taxes or contract any further indebtedness for the  
21 | construction, maintenance, or improvement of ~~roads~~ highways; ~~provided,~~ however, ~~that~~ the  
22 | ~~boards of supervisors or other~~ governing bodies of the several counties shall continue to make  
23 | county or district levies, as the case may be, upon all real and personal property subject to local  
24 | taxation, in such county or magisterial district, and not embraced within the corporate limits of  
25 | any ~~incorporated~~ town ~~which that~~ maintains its own streets and is exempt from county and  
26 | district road taxes unless the citizens of such towns voted on the question of issuing county or  
27 | district road bonds, sufficient only to provide for the payment of any bonded or other

28 indebtedness and for the interest contracted thereon that may be outstanding as an obligation of  
29 any county or district contracted for road purposes or for the sinking fund for the retirement of  
30 any bonded indebtedness established for county or district road purposes; ~~and provided, further,~~  
31 ~~that the boards of supervisors or other governing bodies of counties adjacent to cities of the first~~  
32 ~~class may, for the purpose of supplementing funds available for expenditure by the~~  
33 ~~Commonwealth for the maintenance and improvement of roads in such counties when such~~  
34 ~~supplementary funds are necessary on account of the existence of suburban conditions adjacent~~  
35 ~~to such cities, levy county or district road taxes, as the case may be, the proceeds thereof to be~~  
36 ~~expended at the option of the board of supervisors or other governing body either by or under~~  
37 ~~the supervision of the Commissioner of Highways in the maintenance and improvement,~~  
38 ~~including construction and reconstruction, of roads in such suburban district; and provided,~~  
39 ~~further, that any expenditure heretofore made by the board of supervisors of Giles County from~~  
40 ~~the general funds of the county for the improvement of roads which are not in the secondary~~  
41 ~~system of state highways and which are open to public use is hereby validated.~~

42 ~~All balances in the hands of the local authorities for county or district road purposes and~~  
43 ~~any taxes levied for years prior to 1932 for county or district road purposes and not collected~~  
44 ~~shall, when collected, and to the extent necessary, be disbursed in payment of obligations~~  
45 ~~heretofore contracted for county or district road purposes and remaining unpaid and the balance,~~  
46 ~~if any, for general county or district purposes.~~

47 For the purpose of this section ~~the term,~~ "district" ~~shall mean~~ means a magisterial,  
48 sanitary, or other special district created by the governing body of a county for the levy of road  
49 taxes.

50 **Drafting note: The penultimate paragraph of this section is stricken in the**  
51 **expectation that any county road taxes collected prior to 1932 have been expended. The**  
52 **term "city of the first class" is used eight times in the Code of Virginia but references are**  
53 **out of date and therefore stricken. The entire section appears obsolete and is a possible**  
54 **candidate for repeal. The reference to expenditures made by Giles County validates all**

55 expenditures made "before now," allowing validation of many expenditures after the  
56 intended date. Technical changes are made.

57 ~~§ 33.1-225.1.~~

58 **Drafting note: Repealed by Acts 2003, c. 303.**

59 ~~§ 33.1-225.2 33.2-702.~~ Gifts received by counties for construction, maintenance, etc., of  
60 secondary ~~roads~~ highways.

61 Notwithstanding the provisions of ~~§ 33.1-225 33.2-XXX~~ or any other provisions of law  
62 to the contrary, the governing body of any county may accept gifts of money, property, or  
63 services to be utilized for the construction, maintenance, and improvement of the secondary  
64 state highway system in such county, in conformity with specifications of and in cooperation  
65 with the Department ~~of Transportation; and~~, provided that such gift resources may be matched  
66 in value by appropriations from the county's general funds. The allocation of such donated and  
67 appropriated resources to the secondary highways shall be made by the governing body of the  
68 county, after consultation with the Department ~~of Transportation~~, to be used by the Department  
69 in accordance with the wishes of the governing body of such county.

70 **Drafting note: Technical changes.**

71 ~~§ 33.1-225.3 33.2-703.~~ Funds for ~~roads~~ highways not in secondary state highway system.

72 Notwithstanding the provisions of ~~§ 33.1-225 33.2-XXX~~ or ~~§ 33.1-230 33.2-XXX~~, the  
73 governing body of any county under the urban county executive form of government may  
74 expend funds on minor improvements and maintenance of ~~roads~~ highways not within the  
75 secondary state highway system, provided such ~~roads~~ highways are open for public use. A ~~road~~  
76 highway shall be determined to be open for public use by applying the same standards set forth  
77 in ~~§ 33.1-184 33.2-XXX~~ or by final order of a court of competent jurisdiction on or before  
78 January 1, 1978, except that in order to be eligible for funds under this section such ~~roads~~  
79 highways need not be ~~thirty 30~~ feet ~~in width~~ wide but shall not be less than ~~fifteen 15~~ feet wide.  
80 The maximum amount of mileage to be maintained under this section shall not exceed ~~thirty 30~~  
81 miles.

82 **Drafting note: Technical changes.**

83 ~~§ 33.1 226. Local legislation; compensation of supervisors.~~

84 ~~Chapter 112 of the Acts of 1923, approved March 29, 1923, codified as Michie Code~~  
85 ~~1942, §§ 2014a-2014c, relating to the enactment of county road regulations and the~~  
86 ~~compensation of members of boards of supervisors for work in connection with roads in~~  
87 ~~counties having less than 15,000 population and adjoining one or more cities of the first class, is~~  
88 ~~continued in effect.~~

89 **Drafting note: This section has not been amended since the title was last revised in**  
90 **1970. Its repeal as obsolete is recommended.**

91 ~~§ 33.1 227. Reserved.~~

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

94 ~~§ 33.1 228. County road laws continued in effect for certain counties.~~

95 ~~Sections 1970 to 1972, and 2109 to 2122, both inclusive, of the Code of 1919, as~~  
96 ~~amended; § 1 of Chapter 367 of the Acts of 1918, approved March 16, 1918, codified as §~~  
97 ~~2014e of Michie Code 1942; Chapter 370 of the Acts of 1920, approved March 20, 1920,~~  
98 ~~codified as § 2014d of Michie Code 1942; Chapter 28 of the Acts of 1919, approved September~~  
99 ~~5, 1919, codified as §§ 2124a to 2124m of Michie Code 1942, as amended by Chapter 513 of~~  
100 ~~the Acts of 1922, approved March 28, 1922, by Chapter 519 of the Acts of 1922, approved~~  
101 ~~March 29, 1922, and by Chapter 527 of the Acts of 1926, approved March 25, 1926; §§ 1, 11,~~  
102 ~~12, 12 1/2, 13, 14, 17, 19, 29, 30 and 33 to 45 of Chapter 159 of the Acts of 1928, approved~~  
103 ~~March 10, 1928, included in sections codified as §§ 2039(1) to 2039(46) of Michie Code 1942,~~  
104 ~~as amended as to such §§ 12 and 12 1/2 by Chapter 51 of the Acts of 1932, approved February~~  
105 ~~26, 1932, and as amended as to such § 43 by Chapter 368 of the Acts of 1932, approved March~~  
106 ~~26, 1932, codified as § 2773(54) of Michie Code 1942; Chapter 215 of the Acts of 1928,~~  
107 ~~approved March 15, 1928, and Chapter 257 of the Acts of 1946, approved March 25, 1946,~~  
108 ~~codified as § 2039(38a) of Michie Suppl. 1946, relating to roads in counties that have~~

~~withdrawn their roads from the secondary system of state highways and to the issue of bonds to pay for the same, are continued in effect in and for the counties of Arlington and Henrico for so long as such counties continue to maintain such roads without such secondary system of state highways. Should any of such counties bring itself back within such secondary system of state highways under the provisions of § 33.1-85, such section or acts shall thereupon cease to be in effect in and as to such county. And such §§ 2117, 2118 and 2119, of the Code of 1919, as heretofore amended, and §§ 7 and 8 of such Chapter 28 of the Acts of 1919, approved September 5, 1919, as heretofore amended as aforesaid, are continued in effect with respect to any counties that still have outstanding bonds issued under §§ 2110 to 2122, inclusive, of the Code of 1919, as heretofore amended or under such Chapter 28 of the Acts of 1919, as amended as aforesaid, and are continued in effect also with respect to all such bonds so issued and still outstanding.~~

**Drafting note: This section has not been amended since the title was last revised in 1970. Its repeal as obsolete is recommended.**

~~§ 33.1-228.1~~ § 33.2-704. Agreements between localities for construction and operation of toll facilities.

The governing bodies of adjacent ~~counties, cities, and towns~~ localities may enter into agreements providing for the construction and operation of highways, bridges, and ferries within their boundaries and for the imposition and collection of tolls for the use of such facilities. Such tolls may be in whatever amount, subject to whatever conditions, and expended for whatever purposes provided for in such agreements. Such agreements shall provide for the design, land acquisition, or construction of primary or secondary highway projects that have been included in the six-year plan pursuant to § ~~33.1-70.01~~ 33.2-XXX, or in the case of a primary highway, an approved project included in the six-year improvement program of the ~~Commonwealth Transportation~~ Board. Such agreements shall specify relevant procedures and responsibilities concerning the design, right-of-way acquisition, construction, and contract administration of such projects. Any facility constructed pursuant to the authority granted in ~~the~~ this section shall

136 be constructed in accordance with the applicable standards of the ~~Virginia~~ Department ~~of~~  
137 ~~Transportation~~ for such facility. Prior to executing any agreement pursuant to this section, a  
138 joint public hearing shall be held concerning the benefits of and need for as well as the location  
139 and design of the facility.

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

141 Article 2.

142 Establishment, Alteration, and Discontinuance of Highways.

143 **Drafting note: Existing Article 2 of this chapter is also retained.**

144 § ~~33.1-229~~ 33.2-705. Continuance of powers of county authorities; alternative  
145 procedure.

146 The local ~~road~~ authorities shall continue to have the powers vested in them on June 20,  
147 1932, for the establishment of new ~~roads~~ highways in their respective counties, which shall,  
148 upon such establishment, become parts of the secondary state highway system ~~of state highways~~  
149 within such counties. They shall likewise have the power to alter or change the location of any  
150 ~~road~~ highway now in the secondary state highway system ~~of state highways~~ within such  
151 counties or ~~which that~~ may hereafter become a part of the secondary state highway system ~~of~~  
152 ~~state highways~~ within such counties. The Commissioner of Highways shall be made a party to  
153 any proceeding before the local ~~road~~ authorities for the establishment of any such ~~road~~ highway  
154 or for the alteration or change of the location of any such ~~road~~ highway. When any such board  
155 or commission appointed by the ~~board of supervisors or other~~ governing body of a county to  
156 view a proposed ~~road~~ highway or to alter or change the location of an existing ~~road~~ highway  
157 shall award damages for the right-of-way for the same, in either case to be paid in money, it  
158 may be paid by the ~~board of supervisors or other~~ governing body of the county out of the  
159 general county levy funds. No expenditure by the Commonwealth shall be required upon any  
160 new ~~road~~ highway so established or any old road<sup>[VW1]</sup> the location of which is altered or  
161 changed by the local ~~road~~ authorities, except as may be approved by the Commissioner of  
162 Highways. If the property sought to be taken is for the easement or right-of-way, the plat shall

163 reasonably indicate thereon any appurtenant right-of-way or easement for ingress and egress to  
164 and from the principal easement or right-of-way being taken.

165 As an alternative to the method of establishing or relocating a ~~road~~ highway provided in  
166 the preceding paragraph, the Commissioner of Highways, by and with the approval of the  
167 ~~Commonwealth Transportation~~ Board and the ~~board of supervisors or other~~ governing body of a  
168 county, shall have power and authority to make such changes in routes in, and additions to, the  
169 secondary state highway system ~~of state highways~~ from time to time as the public safety or  
170 convenience may require.

171 The service of any process or notice in any such proceedings upon the district  
172 administrator of the Department ~~of Transportation~~ having the supervision of maintenance and  
173 construction of highways in any such county shall be termed sufficient service on the  
174 Commissioner of Highways.

175 **Drafting note: Existing § 33.1-229 was amended by Chapters 585 and 646 of the**  
176 **2013 Acts of Assembly and those changes are reflected in the existing language here.**  
177 **Technical changes are made.**

178 § ~~33.1-230~~ 33.2-706. How ~~roads~~ highways and bridges in counties established or altered;  
179 examination and report; width and grade of ~~roads~~ highways; employing engineer.

180 Whenever the ~~board of supervisors or other~~ governing body of any county ~~shall be~~ is of  
181 the opinion that it is necessary to establish or alter the location of a public ~~road~~ highway or  
182 bridge, or any other person applies to the ~~board or other~~ local governing body therefor, it may  
183 appoint five viewers, who shall be resident freeholders of the county, any three of whom may  
184 act, to examine such ~~roads~~ highways or routes and report upon the expediency of establishing or  
185 altering the location of such public ~~road~~ highway or bridge ~~or, in~~ In lieu of such viewers, ~~it the~~  
186 local governing body may direct the county road engineer or county road manager, ~~if any,~~ to  
187 examine such ~~road~~ highway or route and make such report, and such board may establish or  
188 alter such ~~road~~ highway or bridge upon such location and of such width and grade as it may  
189 prescribe; ~~provided, that the~~ The right-of-way for any public ~~road~~ highway shall not be less

190 than ~~thirty~~ 30 feet wide, except that in any case in which the cost of constructing and  
191 maintaining any such ~~road~~ highway is to be borne by any individual ~~or individuals~~ the right-of-  
192 way for such ~~road~~ highway may be less than ~~thirty, 30 but~~ not less than ~~fifteen, 15~~ feet in width.  
193 If ~~no one~~ none of the viewers ~~be is~~ an engineer, appointed for the purpose of making survey and  
194 map, the ~~board of supervisors or other~~ local governing body may employ ~~one~~ an engineer, if  
195 necessary, to assist the viewers.

196 **Drafting note: Technical changes. Plural references are removed pursuant to § 1-**  
197 **227.**

198 § ~~33.1-231~~ 33.2-707. Duty of viewers, etc.; report.

199 The viewers, or the county road engineer or county road manager, ~~as the case may be,~~  
200 shall, as early as practicable after receiving the order of the ~~board or other~~ local governing body  
201 ~~to that effect~~, proceed to make the view, and may examine ~~other~~ routes and locations other than  
202 that proposed and if of the opinion that there is a necessity to establish or alter the location of  
203 the public ~~road~~ highway or bridge shall locate the same, ~~return a map or diagram thereof with~~  
204 ~~their report~~, and make a report to the ~~board or other~~ local governing body, ~~stating that includes a~~  
205 map or diagram of the location made and that states:

206 (1) 1. Their reasons for preferring the location made;<sub>;</sub>

207 (2) 2. The probable cost of establishing or altering the location of such ~~road~~ highway or  
208 bridge;<sub>;</sub>

209 (3) 3. The convenience and inconvenience that will result ~~as well~~ to individuals as well  
210 as to the public;<sub>;</sub>

211 (4) 4. Whether the ~~road~~ highway or bridge will be one of such mere private convenience  
212 as to make it proper that it should be opened, established, or altered and kept in order by the  
213 person ~~or persons~~ for whose convenience it is desired;<sub>;</sub>

214 (5) 5. Whether any yard, garden, or orchard will have to be taken;<sub>;</sub>

215 (6) 6. The names of the landowners on such route;<sub>;</sub>

216 (7) 7. Which of such landowners require compensation;<sub>;</sub>

217 ~~(8)~~ 8. What will be a just compensation to the landowners requiring compensation for  
218 the land so taken and for the damages to the residue of the tract, if any, beyond the peculiar  
219 benefits to be derived in respect to such residue, from the ~~road~~ highway or bridge to be  
220 established; and

221 ~~(9)~~ 9. All other facts and circumstances in their opinion useful in enabling the ~~board of~~  
222 ~~supervisors or other~~ local governing body to determine the expediency of establishing or  
223 altering the ~~road~~ highway or bridge.

224 They shall file such report with the clerk of the ~~board or other~~ local governing body.

225 **Drafting note: Technical changes.**

226 § ~~33.1-242~~ 33.2-708. Pay to viewers, commissioners, and engineers.

227 A statement in writing showing the number of days each viewer or commissioner and  
228 engineer, appointed or employed under the provisions of ~~this article §§ 33.2-XXX through 33.2-~~  
229 ~~XXX~~, was employed shall be sworn to and presented to the governing body, and the governing  
230 body may allow a reasonable compensation not exceeding \$50 per day to each viewer or  
231 commissioner and not exceeding \$7.50 per day and necessary traveling expenses for the  
232 engineer; provided that in any county adjoining a county having a population in excess of 1,000  
233 per square mile and in the County of Henrico, the governing body may pay the viewers,  
234 commissioners, and engineers in addition to expenses not exceeding \$25 a day for each day they  
235 were respectively employed hereunder.

236 **Drafting note: The rates of compensation provided for in this section have not been**  
237 **changed since 1978 (Chapter 305, Acts of Assembly of 1978) when the per day pay to**  
238 **viewers and commissioners was raised to the present \$50 from \$10. Reference to "this**  
239 **article" is replaced with specific section numbers, since what had been a single article is**  
240 **now part of a larger article. Technical changes are made.**

241 § ~~33.1-232~~ 33.2-709. Consent of landowners.

242 In the event that some of the landowners do not require compensation and will execute  
243 their written consent giving the right-of-way in question, the viewers, or the county road

244 engineer or county road manager, ~~as the case may be~~, shall obtain such consent and return it  
245 with ~~their~~ the report to the local governing body, and such written consent shall operate and  
246 have the force and effect of a deed from the landowners of the county for the right-of-way so  
247 long as it is used by the public, in case the ~~road~~ highway is established, and it shall be recorded  
248 in the deed books of the county.

249 Should any of the landowners require compensation and not unite in such deed, the  
250 subsequent proceedings ~~as to them~~ shall be as ~~herein~~ prescribed in this article.

251 **Drafting note: Technical changes.**

252 § ~~33.1-233~~ 33.2-710. Proceedings on report; notice to owners.

253 At the next meeting of the ~~board of supervisors or other local~~ governing body after  
254 receipt of such report, as provided in § 33.2-XXX, unless the opinion of the ~~board or other local~~  
255 governing body ~~be is~~ against establishing or altering the ~~road~~ highway or bridge, ~~they the local~~  
256 governing body shall require ~~their~~ its clerk to give written notice to the owner of the land on  
257 which it is proposed to establish or alter such ~~road~~ highway or bridge at least five days before  
258 the hearing to be held under § ~~33.1-235 of this Code~~ 33.2-XXX informing the owner of the time  
259 and place of the hearing at which he may appear and present his views. Notice sent by registered  
260 or certified mail to the last known address of such owner as shown on the current real estate tax  
261 assessment books shall be deemed adequate compliance with this requirement. If the hearing is  
262 continued, notice shall be ~~remailed~~ mailed again. If the current real estate tax assessment books  
263 do not contain the name of the owner of the affected land, notice of the hearing shall be  
264 published once each week for four successive weeks in a newspaper having general circulation  
265 in the county.

266 **Drafting note: Technical changes.**

267 § ~~33.1-234~~ 33.2-711. Guardian ad litem for persons under disability.

268 If any such owner or proprietor ~~be is~~ a person under a disability as defined in § 8.01-2,  
269 the circuit court of the county, ~~or the judge thereof in vacation~~, shall, at the time the clerk shall  
270 issue such process, or as soon thereafter as practicable, upon the court's or judge's own motion,

271 or upon the suggestion of any party in interest, appoint for such person a guardian ad litem, who  
272 shall faithfully represent the interest of the person under a disability and whose fees shall be  
273 fixed by the court or judge making the appointment.

274 **Drafting note: Technical change.**

275 § ~~33.1-235~~ 33.2-712. Defense allowed; what board may do.

276 Upon the return of the process duly executed, defense may be made to the proceedings  
277 by any party and the ~~board of supervisors or other~~ local governing body may hear testimony  
278 touching the expediency or propriety of establishing or altering the ~~road~~ highway or bridge.  
279 Upon such hearing, ~~unless the board of supervisors or other local governing body be of opinion~~  
280 ~~that the road or bridge ought not to be established or altered, in which case it shall so order, it~~  
281 shall ~~proceed to~~ fix ~~upon a~~ just compensation to the proprietors and tenants for the land  
282 proposed to be taken and the damage accruing therefrom, unless the local governing body is of  
283 the opinion that the highway or bridge should not be established or altered in which case it shall  
284 so order.

285 **Drafting note: Technical change.**

286 § ~~33.1-236~~ 33.2-713. Appointment of commissioners to assess damages.

287 If ~~any a~~ tenant or proprietor ~~desire, desires~~ or if the ~~board of supervisors or other local~~  
288 governing body ~~see sees~~ cause ~~for doing it, it~~ the local governing body shall appoint five  
289 disinterested resident freeholders of the county as commissioners, any three of whom may act,  
290 ~~for the purpose of ascertaining a to ascertain~~ just compensation for the land to be taken for such  
291 ~~road~~ highway or bridge and damages, if any, to the residue, beyond the benefits to be derived by  
292 such residue, from such ~~road~~ highway or bridge.

293 **Drafting note: Technical changes.**

294 § ~~33.1-237~~ 33.2-714. Enhancement in value of residue.

295 The enhancement, if any, in value of the residue by reason of the establishment or  
296 alteration of such ~~road~~ highway or bridge shall be offset against the damage to the residue, but

297 there shall be no recovery over against such landowner for any excess nor shall enhancement be  
298 offset against the value of land taken.

299 **Drafting note: Technical changes.**

300 § ~~33.1-238~~ 33.2-715. Action of commissioners; report.

301 The commissioners shall meet on the lands of ~~such the~~ proprietors and tenants ~~as may be~~  
302 that are named in the order of the ~~board of supervisors or other local~~ governing body at a ~~certain~~  
303 specified place and day ~~therein also specified~~, of which notice shall be given by the sheriff to  
304 such proprietors and tenants or their agents, ~~except only that it.~~ Notice need not be given to ~~one~~  
305 any person present at the time ~~of making~~ the order is made. Any one or more of the  
306 commissioners attending on the land ~~as aforesaid~~ may adjourn, from time to time, ~~till the~~ until  
307 their business ~~shall be is~~ finished. The commissioners, in the discharge of their duties, shall  
308 comply in all respects with the provisions of Chapter 2 (§ 25.1-200 et seq.) of Title 25.1 so far  
309 as applicable. They shall ~~forthwith~~ promptly make ~~return of~~ their report as required by § 25.1-  
310 232 to the ~~board of supervisors or other local~~ governing body and, unless good cause ~~be is~~  
311 shown against the report, it shall be confirmed. If, however, good cause ~~be is~~ shown against the  
312 report or the commissioners report their disagreement, or fail to report within a reasonable time,  
313 the ~~board of supervisors or other local~~ governing body, ~~as often as it seems proper~~, may appoint  
314 other commissioners for the purpose of ascertaining to ascertain the compensation and damages  
315 ~~as aforesaid~~. When any report is confirmed, the ~~board of supervisors or other local~~ governing  
316 body shall establish or alter the ~~road~~ highway or bridge with or without gates, as ~~to~~ it may seem  
317 proper, and provide for the payment of the compensation and damages allowed.

318 **Drafting note: Technical changes and modernization of language.**

319 § ~~33.1-239~~ 33.2-716. Appeal to circuit court.

320 If ~~such an~~ applicant, proprietor, or tenant is ~~dissatisfied not satisfied~~ with the decision of  
321 the ~~board of supervisors or other local~~ governing body ~~in with~~ respect to the amount of  
322 compensation or damages allowed, he may ~~of right~~ appeal, but only on the question of  
323 compensation and damages, to the circuit court of the county, provided such appeal is filed

324 within ~~sixty~~ 60 days. The court shall hear the matter de novo as to the amount of compensation  
325 and damages with the further right of appeal as provided by general law. Upon the hearing of  
326 the appeal, the court shall ascertain the amount of compensation and damages, if any, to which  
327 such proprietor is entitled, and shall certify the same to the ~~board of supervisors or other~~ local  
328 governing body, ~~who~~ which shall proceed to carry out the judgment of the court; ~~provided,~~  
329 ~~however~~ that the ~~board of supervisors or other~~ local governing body shall be summoned to  
330 appear at the hearing of the appeal.

331 **Drafting note: Technical changes.**

332 § ~~33.1-240~~ 33.2-717. Who shall pay costs, compensation, and damages.

333 When the ~~road~~ highway or bridge is established or altered, the county shall be  
334 chargeable with the compensation and damages to the proprietor or tenant and all costs incurred  
335 in the proceedings; ~~provided,~~ ~~however,~~ that when the record shows that the sum allowed by the  
336 circuit court on appeal, as compensation and damages to any proprietor or tenant, is not more  
337 than the amount allowed ~~him~~ by the ~~board of supervisors or other~~ local governing body from  
338 whose decision the appeal was taken, such proprietor or tenant shall be adjudged to pay the  
339 costs occasioned by such appeal. When the ~~board of supervisors or other~~ local governing body  
340 decides against the application to establish or alter a ~~road~~ highway or bridge, the applicant shall  
341 pay the costs incurred in the case, except the compensation of the viewers.

342 But when it shall appear to the ~~board of supervisors or other~~ local governing body that  
343 the opening and establishing or altering of such ~~road~~ highway will be for mere private  
344 convenience, then the ~~board of supervisors or other~~ local governing body may order the same  
345 upon condition that such applicant pay, in whole or in part, the compensation and damages to  
346 the proprietor or tenant and the costs of the proceedings and keep the ~~road~~ highway in order. In  
347 any such case the ~~road~~ highway shall not be opened and established or altered until such  
348 compensation and damages and costs ~~shall have~~ has been first paid or the written consent of the  
349 proprietor or tenant has been given.

350 **Drafting note: Technical changes.**

351 § ~~33.1-241~~ 33.2-718. ~~Roads~~ Highways not to be established through cemetery or  
352 seminary of learning without owners' consent.

353 No ~~road~~ highway shall be established upon or through the lands of any cemetery or  
354 through the lands of any seminary of learning without the consent of the owners thereof.

355 **Drafting note: Technical change.**

356 § ~~33.1-243~~ 33.2-719. Abandonment of certain ~~roads~~ highways and railway crossings.

357 The governing body of any county ~~which that~~ has chosen or hereafter chooses not to be  
358 included in the provisions of ~~Article 6 (§ 33.1-67 et seq.) of Chapter 1 of this title XXX,~~  
359 whenever it deems that any part of a ~~road~~ highway subject to its jurisdiction is no longer  
360 required or an existing crossing by any such ~~road~~ highway of the lines of a railway company, or  
361 any existing crossing by the lines of a railway company of such ~~road~~ highway, is no longer  
362 necessary as a part of such ~~road~~ highway system, may abandon the section of ~~road,~~ highway or  
363 the crossing.

364 The procedure for any such abandonment shall be governed by the provisions applicable  
365 to the ~~Commonwealth Transportation~~ Board as provided in §§ ~~33.1-144 to 33.1-167~~ 33.2-XXX  
366 through 33.2-XXX, and all provisions applicable to the Board shall apply, mutatis mutandis, to  
367 the governing body of the county.

368 **Drafting note: Technical changes.**

369 § ~~33.1-244~~ 33.2-720. Supervisors may issue process.

370 The ~~board of supervisors or other~~ governing body of a county shall have power to cause  
371 process to issue and compel the attendance of witnesses and other parties.

372 **Drafting note: Technical change.**

373 § ~~33.1-245~~ 33.2-721. Compensation of clerk of board.

374 ~~Except in the County of Henrico the~~ The clerk of the ~~board of supervisors or other~~ local  
375 governing body of a county shall receive for the duties to be performed by him under the  
376 provisions of this ~~chapter, article~~ compensation to be fixed and allowed to him by the ~~board or~~  
377 other local governing body, ~~not less, however, than \$100 and not to exceed \$300 per annum.~~



404 **Drafting note: Existing Article 1 of Chapter 4 of Title 33.1 is retained and relocated**  
405 **here.**

406 ~~§ 33.1-321, 33.2-723. County authorized to assume Assumption of district highway~~  
407 indebtedness by counties, generally.

408 A. Any county may assume the payment of and pay any outstanding indebtedness of any  
409 magisterial district or districts thereof, incurred for the purpose of constructing public ~~roads~~  
410 which highways that were subsequently taken over by the Commonwealth, provided the  
411 assumption thereof ~~be is~~ approved by a majority of the qualified voters of the county voting on  
412 the question at an election to be held as ~~hereinafter~~ provided in this section.

413 ~~§ 33.1-322. Resolution for election; notice thereof.~~

414 B. The governing body of the county may, by a resolution entered of record in its minute  
415 book, require the judges of election to open a poll at the next regular election and take the sense  
416 of the qualified voters of the county upon the question whether or not the county shall assume  
417 the ~~road highway~~ indebtedness of . . . . . district, or . . . . . districts. The  
418 local governing body shall cause notice of such election to be given by the posting of written  
419 notice thereof at the front door of the county courthouse at least ~~thirty~~ 30 days prior to the date  
420 the same is to be held and by publication thereof once a week for two successive weeks in ~~some~~  
421 a newspaper published ~~in the county, and if none such, then in some newspaper or~~ having  
422 general circulation ~~therein in the county~~, which notice shall set forth the date of such election  
423 and the question to be voted on.

424 ~~§ 33.1-323. Conduct of election; certification and recording of returns.~~

425 C. The ballots for use in voting upon the question so submitted shall be prepared,  
426 printed, distributed, voted, and counted and the returns made and canvassed in accordance with  
427 the provisions of § 24.2-684. The results shall be certified by the commissioners of election to  
428 the county clerk, who shall certify the same to the governing body of the county, and such  
429 returns shall be entered of record in the minute book of the local governing body.

430 ~~§ 33.1-324. Favorable vote renders indebtedness county obligation.~~

431 D. If a majority of the voters voting on the question vote in favor of the assumption by  
432 the county of the ~~road-highway~~ indebtedness of any district ~~or districts~~ of the county, such  
433 indebtedness shall become and be an obligation ~~or obligations~~ of the county and as binding  
434 thereon as if the same had been originally contracted by the county. In such event the governing  
435 body of the county is authorized to levy and collect taxes throughout the county for the payment  
436 of the district indebtedness so assumed, both as to principal and interest.

437 ~~§ 33.1-325. District road obligations not affected by adverse vote.~~

438 E. Nothing ~~herein~~ contained in this section shall ~~in any way~~ affect the validity of such  
439 district ~~road highway~~ obligations in the event ~~of that~~ the result of such election ~~being is~~ against  
440 the assumption thereof by the county, but they shall continue to be as valid and binding in all  
441 respects, as they were in their inception.

442 **Drafting note: Five short sections dealing with the same subject are merged. The**  
443 **five existing sections appear obsolete and are a candidate for repeal. Plural references are**  
444 **deleted pursuant to § 1-227.**

445 ~~Article 2.~~

446 ~~Assumption by County With Executive Form of Government.~~

447 **Drafting note: Repeal of this article is recommended because it only applies to**  
448 **taking over of debts incurred prior to June 14, 1945.**

449 ~~§ 33.1-326. Authorization of assumption.~~

450 ~~Any county operating under the executive form of government may assume indebtedness~~  
451 ~~of one or more of its magisterial districts incurred prior to June 14, 1945, for the construction of~~  
452 ~~roads, provided the voters in the county vote in favor of the assumption of such indebtedness.~~

453 ~~§ 33.1-327. Election to determine assumption.~~

454 ~~The circuit court of the county, or the judge thereof in vacation, upon the petition of a~~  
455 ~~majority of the board of county supervisors of such county, shall make an order requiring the~~  
456 ~~judges of election at the next regular election, or at any other time not less than thirty days from~~  
457 ~~the date of such order, which shall be designated therein, to open a poll and take the sense of the~~

458 ~~qualified voters of the county upon the question of whether the county shall assume the~~  
459 ~~road indebtedness of ..... district, or ..... districts.~~

460 ~~§ 33.1-328. Conduct of election.~~

461 ~~The regular election officers of the county at the time designated in the order authorizing~~  
462 ~~the vote shall open the polls at the various voting places in the county and the ballots for such~~  
463 ~~election shall be prepared, distributed and voted, the election conducted and the result thereof~~  
464 ~~ascertained and certified in the manner provided by law in other elections, except that there shall~~  
465 ~~be printed upon the ballots the question, "Shall the county assume the road indebtedness of ....~~  
466 ~~..... district or districts?" (as the case may be), and the following:~~

467  
468  
469  ~~For~~

470  
471  ~~Against~~

472  
473 ~~§ 33.1-329. Effect of favorable vote.~~

474 ~~If a majority of the voters at the election vote in favor of the assumption of indebtedness~~  
475 ~~of districts, or a district, of the county, such indebtedness shall become an obligation of the~~  
476 ~~county as binding thereon as if contracted by the county in its inception and may be enforced~~  
477 ~~against it like any debt of the county as provided by law and the obligation shall be validated~~  
478 ~~and shall not be questioned thereafter by the county.~~

479 ~~§ 33.1-330. Payment; refunding issue.~~

480 ~~If a majority of the voters at the election vote in favor of the assumption of such~~  
481 ~~indebtedness, the board of county supervisors may appropriate any part or all of the surplus in~~  
482 ~~the general funds of the county, not otherwise appropriated, toward payment of the indebtedness~~  
483 ~~assumed; and the board may likewise issue new bonds of the county at the same or a lower rate~~  
484 ~~of interest for such amount as may then be necessary to retire outstanding bonds of the districts,~~  
485 ~~and thereafter the board of county supervisors shall provide for the imposition and collection~~  
486 ~~annually of a tax in addition to all other taxes on property subject to local taxation and not~~  
487 ~~exempt from the levy of taxes formerly levied for the payment of bonds refunded, sufficient in~~

488 ~~amount to pay the interest on such bonds and the principal thereof, as the same respectively~~  
489 ~~become due, notwithstanding any tax rate limitations which would otherwise be applicable to~~  
490 ~~the levy of such taxes. Such tax shall be levied and collected by the same officers, at the same~~  
491 ~~time and in the same manner as general taxes of the county.~~

492 ~~The sale of such bonds, deposit of proceeds, security for deposits, provisions for sinking~~  
493 ~~funds and expenses of authorization and issuance shall be in accordance with the provisions of~~  
494 ~~general law except that the taxes for the payment of such bonds, principal and interest, shall be~~  
495 ~~uniformly levied throughout the county. The proceeds of the sale of such refunding bonds shall~~  
496 ~~be invested in obligations of the United States of America maturing or redeemable at the option~~  
497 ~~of the holder, not later than the date of maturity or the optional redemption date of the bonds to~~  
498 ~~be refunded.~~

499 ~~§ 33.1-331. Validity of existing bonds not affected.~~

500 ~~Nothing contained in this article shall affect the validity of existing bonds of any district~~  
501 ~~in a county now operating under the executive form of government.~~

502 ~~Article 3.~~

503 ~~Redemption of District Road Bonds.~~

504 **Drafting note: Repeal of this obsolete article is recommended.**

505 ~~§ 33.1-332. Election to determine redemption.~~

506 ~~Whenever the holders of the majority amount of any issue of bonds made by any road~~  
507 ~~district in the Commonwealth, together with twenty-five freeholders of the district, shall petition~~  
508 ~~the circuit court of the county in which such district is located for an election to ascertain~~  
509 ~~whether the people of such district desire that such bonds shall be redeemed before maturity at~~  
510 ~~their face value with accrued interest, if any, and whether they will authorize the board of~~  
511 ~~supervisors or other governing body of such county to provide a special levy to provide a fund~~  
512 ~~to be used for that purpose along with other funds accumulated to the credit of such district for~~  
513 ~~road purposes, the court shall order an election to be held in the same manner as elections are~~  
514 ~~held when ordered upon the question of the issuance of county or district bonds and there shall~~

515 ~~be printed on the ballot used at such election the words "for redemption of bonds" and "against~~  
516 ~~redemption of bonds" and voters at such election shall express their preference by erasing the~~  
517 ~~words which do not express such preference.~~

518 ~~§ 33.1-333. Redemption of such bonds.~~

519 ~~If the majority of the voters of the district, voting at such election, shall vote in favor of~~  
520 ~~the redemption of the bonds prior to their maturity, the court shall direct its clerk to notify all the~~  
521 ~~holders of the bonds, as far as they may be ascertained, whose names are not already among~~  
522 ~~those who petition for the election, to communicate in writing to the clerk, within thirty days,~~  
523 ~~whether or not they wish the bonds which they hold to be redeemed prior to their maturity. The~~  
524 ~~clerk shall communicate to the chairman of the board of supervisors or other governing body of~~  
525 ~~the county the names, number and amount of bonds, the holders of which have consented to~~  
526 ~~have them redeemed prior to their maturity; and the board of supervisors or other governing~~  
527 ~~body in making up its next levy shall provide for sufficient taxes upon the property of the~~  
528 ~~residents of the district to redeem the bonds within three years. As the accumulations from the~~  
529 ~~several levies shall accrue the treasurer of the county shall redeem the bonds, in the order of~~  
530 ~~their presentation, and cancel and retire the same.~~

531 ~~§ 33.1-334. Subsequent election.~~

532 ~~No second or subsequent election shall be held upon the question of redeeming any one~~  
533 ~~issue of bonds at intervals shorter than five years.~~

534 ~~§ 33.1-335. Application of balance to payment of bonds.~~

535 ~~Should there be a balance in the hands of any board of supervisors or other governing~~  
536 ~~body of any county a district of which has issued such bonds, which has not been used for the~~  
537 ~~building of roads in the district, the board of supervisors or other governing body may, should~~  
538 ~~they deem it advisable, apply such balance to the payment of such bonds as hereinbefore~~  
539 ~~provided for, with the consent of the holders of such bonds.~~