

1 CHAPTER ~~48.2~~ XX.

2 NORTHERN VIRGINIA TRANSPORTATION AUTHORITY.

3 **Drafting note: Existing Chapter 48.2 (§ 15.2-4829 et seq.) of Title 15.2 is relocated**
4 **here as Chapter ___ of proposed Title 33.2 because it relates to local and regional**
5 **transportation and this relocation places it with other sections related to transportation in**
6 **Northern Virginia, such as the Northern Virginia Transportation District Program found**
7 **in proposed Chapter ___.**

8 ~~§ 15.2-4829. Short title.~~

9 ~~This chapter shall be known and may be cited as the Northern Virginia Transportation~~
10 ~~Authority Act.~~

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

14 ~~§ 15.2-4830~~ 33.2-XXX. Northern Virginia Transportation Authority created.

15 There is hereby created a political subdivision of the Commonwealth known as the
16 Northern Virginia Transportation Authority, ~~hereinafter known for purposes of this chapter~~
17 referred to as "the Authority."

18 In addition to such other powers vested in the Authority by this chapter, the Authority
19 shall have the following powers and functions:

20 1. The Authority shall prepare a regional transportation plan for Planning District ~~Eight,~~
21 ~~to include, but not necessarily be limited to,~~ 8 that includes transportation improvements of
22 regional significance; and those improvements necessary or incidental thereto; and shall from
23 time to time revise and amend the plan. The provisions of Article ~~7~~ ___ (§ ~~15.2-4527~~ 33.2-XXX
24 et seq.) of Chapter ~~45 of this title~~ ___ shall apply, mutatis mutandis, to preparation of such
25 transportation plan.

26 2. The Authority may, when a transportation plan is adopted according to subdivision 1,
27 construct or acquire, by purchase, lease, contract, or otherwise, the transportation facilities
28 specified in such transportation plan.

29 3. The Authority may enter into agreements or leases with public or private entities for
30 the operation of its facilities; or may operate such facilities itself.

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

40 Notwithstanding ~~the above, however~~ subdivisions 1 through 4, the Authority shall not
41 have the power to regulate services provided by taxicabs, either within municipalities or across
42 municipal boundaries; ~~which; such~~ regulation is expressly reserved to the municipalities within
43 which taxicabs operate.

44 5. Notwithstanding any other provision of law to the contrary, the Authority may:

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

47 b. Acquire land or any interest therein by purchase, lease, or gift in advance of the need
48 for sale or contribution to an agency, for use by that agency in connection with an adopted
49 transportation plan; and

50 c. Prepare a plan for mass transportation services with persons, ~~cities, counties~~ counties,
51 cities, agencies, authorities, or transportation commissions and may further contract with any

52 | such person or ~~other~~ entity to provide necessary facilities, equipment, operations and
53 | maintenance, access, and insurance pursuant to such plan.

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

55 | § ~~15.2-4831~~ 33.2-XXX. Counties and cities embraced by the Authority.

56 | The Authority shall embrace the Counties of Arlington, Fairfax, Loudoun, and Prince
57 | William, and the Cities of Alexandria, Fairfax, Falls Church, Manassas, and Manassas Park.

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

59 | § ~~15.2-4832~~ 33.2-XXX. Composition of Authority; membership; terms.

60 | The Authority shall consist of 17 members as follows:

61 | 1. The chief elected officer of the governing body of each county and city embraced by
62 | the Authority or, in the discretion of the chief elected officer, his designee, who shall be a
63 | current elected officer of such governing body;

64 | 2. Two members of the House of Delegates who reside in different counties or cities
65 | embraced by the Authority, appointed by the Speaker of the House, and to the extent
66 | practicable, from the membership of the House Committee on Appropriations, the House
67 | Committee on Finance, or the House Committee on Transportation;

68 | 3. One member of the Senate who resides in a county or city embraced by the Authority,
69 | appointed by the Senate Committee on Rules, and to the extent practicable, from the
70 | membership of the Senate Committee on Finance and the Senate Committee on Transportation;

71 | ~~and~~

72 | 4. Two ~~citizens~~ nonlegislative citizen members who reside in different counties ~~and or~~
73 | cities embraced by the Authority, appointed by the Governor. One such gubernatorial
74 | appointment shall include be a member of the Commonwealth Transportation Board ~~who~~
75 | ~~resides in a county or city embraced by the Authority. The remaining gubernatorial appointment~~
76 | and one shall be a person who has significant experience in transportation planning, finance,
77 | engineering, construction, or management; ~~and shall be a resident of a county or city embraced~~

78 ~~by the Authority, but shall not be a resident of the same county or city as the other gubernatorial~~
79 ~~appointee to the Authority.~~

80 ~~Legislative members shall serve terms coincident with their terms of office. The~~
81 ~~gubernatorial appointee who is not a member of the Commonwealth Transportation Board shall~~
82 ~~serve for a term of four years. Vacancies occurring other than by expiration of a term shall be~~
83 ~~filled for the unexpired term. Vacancies shall be filled in the same manner as the original~~
84 ~~appointments.~~

85 ~~In addition, the 5.~~ The following three persons who shall serve as nonvoting ex officio
86 members of the Authority: the Director of the Virginia Department of Rail and Public
87 Transportation, or his designee; the Commissioner of Highways, or his designee; and the chief
88 elected officer of one town in a county ~~which embraced by~~ the Authority ~~embraces~~ to be chosen
89 by the Authority.

90 All members of the Authority shall serve terms coincident with their terms of office,
91 except the gubernatorial appointee who is not a member of the Board shall serve for a term of
92 four years. A vacancy occurring other than by expiration of a term shall be filled for the
93 unexpired term. Vacancies shall be filled in the same manner as the original appointments.

94 The Authority shall appoint ~~the a~~ chairman and vice-chairman from among its members.

95 **Drafting note: Technical changes are made to conform language to current**
96 **appointment language used in the Code and to specify that the chief elected officers of the**
97 **localities in the Authority and other nonlegislative ex officio members are also serving**
98 **terms coincident with their terms of office.**

99 § ~~15.2-4833~~ 33.2-XXX. Staff.

100 The Authority shall employ a chief executive officer and such staff as it shall determine
101 to be necessary to carry out its duties and responsibilities under this chapter. No such person
102 shall contemporaneously serve as a member of the Authority. The ~~Virginia~~ Department of
103 Transportation and the ~~Virginia~~ Department of Rail and Public Transportation shall make their
104 employees available to assist the Authority, upon request.

105 **Drafting note: Technical changes.**

106 § ~~15.2-4834~~ 33.2-XXX. Decisions of Authority.

107 A majority of the Authority, which majority shall include at least a majority of the
108 representatives of the counties and cities embraced by the Authority, shall constitute a quorum.
109 Decisions of the Authority shall require a quorum and shall be in accordance with voting
110 procedures established by the Authority. In all cases, decisions of the Authority shall require the
111 affirmative vote of two-thirds of the members of the Authority present and voting, and two-
112 thirds of the representatives of the counties and cities embraced by the Authority who are
113 present and voting and whose counties and cities include at least two-thirds of the population
114 embraced by the Authority; however, no motion to fund a specific facility or service shall fail
115 because of this population criterion if such facility or service is not located or to be located or
116 provided or to be provided within the county or city whose representative's sole negative vote
117 caused the facility or service to fail to meet the population criterion. The population of counties
118 and cities embraced by the Authority shall be the population as determined by the most recently
119 preceding decennial census, except that on July 1 of the fifth year following such census, the
120 population of each county and city shall be adjusted, based on population projections made by
121 the Weldon Cooper Center for Public Service of the University of Virginia.

122 **Drafting note: No changes.**

123 § ~~15.2-4835~~ 33.2-XXX. Allocation of certain Authority expenses among component
124 counties and cities.

125 The administrative expenses of the Authority, as provided in an annual budget adopted
126 by the Authority, to the extent funds for such expenses are not provided from other sources,
127 shall be allocated among the component counties and cities on the basis of the relative
128 population, as determined pursuant to § ~~15.2-4834~~ 33.2-XXX. Such budget shall be limited
129 solely to the administrative expenses of the Authority and shall not include any funds for
130 construction or acquisition of transportation facilities ~~and/or or for the performing performance~~
131 of any transportation service.

132 **Drafting note: Technical changes.**

133 § ~~15.2-4836~~ 33.2-XXX. Payment to members of Authority.

134 The members of the Authority may be paid for their services compensation in either (i)
135 the amount provided in the general ~~appropriations~~ appropriation act for members of the General
136 Assembly engaged in legislative business between sessions or (ii) a lesser amount as determined
137 by the Authority. Members may be reimbursed for all reasonable and necessary expenses
138 provided in §§ 2.2-2813 and 2.2-2825, if approved by the Authority. Funding for the costs of
139 compensation and expenses of the members shall be provided by the Authority.

140 **Drafting note: Technical change.**

141 § ~~15.2-4837~~ 33.2-XXX. Formation of advisory committees.

142 A. The Authority shall have a technical advisory committee, consisting of nine
143 individuals who reside or are employed in counties and cities embraced by the Authority and
144 have experience in transportation planning, finance, engineering, construction, or management.
145 Six members shall be appointed by ~~local jurisdictions~~ counties and cities embraced by the
146 Authority and three members shall be appointed by the ~~chairman~~ Chairman of the
147 Commonwealth Transportation Board. The technical advisory committee shall advise and
148 provide recommendations on the development of projects as required by § ~~15.2-4838~~ 33.2-XXX
149 and funding strategies and other matters as directed by the Authority.

150 B. The Authority also shall have a planning coordination advisory committee, ~~which that~~
151 shall include, ~~but not be limited to,~~ at least one elected official from each town that is located in
152 any county embraced by the Authority and receives street maintenance payments under § ~~33.1-~~
153 ~~41.1~~ 33.2-XXX.

154 C. The Authority may, in its discretion, form additional advisory committees.

155 **Drafting note: Technical changes.**

156 § ~~15.2-4838~~ 33.2-XXX. Responsibilities of Authority for long-range transportation
157 planning.

158 A. The Authority shall be responsible for long-range transportation planning for regional
159 transportation projects in Northern Virginia. In carrying out this responsibility, the Authority
160 shall, on the basis of a regional consensus, whenever possible, set regional transportation
161 policies and priorities for regional transportation projects. The policies and priorities shall be
162 guided by performance-based criteria such as the ability to improve travel times, reduce delays,
163 connect regional activity centers, improve safety, improve air quality, and move the most people
164 in the most cost-effective manner.

165 B. The Authority shall report annually on the (i) ~~the~~ allocation and expenditure of all
166 moneys deposited to the Special Fund Account of the Northern Virginia Transportation
167 Authority ~~pursuant to subsection D of § 58.1-604.5~~; (ii) use of these moneys to reduce traffic
168 congestion in ~~the counties and cities described in subsections A and B of § 58.1-604.5~~ Northern
169 Virginia; and (iii) use of these moneys to improve air quality in such counties and cities and in
170 the Washington Metropolitan Area.

171 **Drafting note: Section 58.1-604.5, enacted by Chapter 853 of the Acts of Assembly**
172 **of 2002 and referenced in this section, was deleted at the direction of the Virginia Code**
173 **Commission because the referenda held pursuant to Chapter 853 of the Acts of Assembly**
174 **of 2002 failed to pass. References to § 58.1-604.5 in this section are deleted. Technical**
175 **changes are also made.**

176 § ~~15.2-4838.01~~ 33.2-XXX. Northern Virginia Transportation Authority Fund
177 established.

178 There is hereby created in the state treasury a special nonreverting fund for Planning
179 District 8 to be known as the Northern Virginia Transportation Authority Fund, hereafter
180 referred to as "the Fund." The Fund shall be established on the books of the Comptroller. All
181 revenues dedicated to the Fund pursuant to §§ 58.1-638, 58.1-802.2, and 58.1-1742, any other
182 funds that may be appropriated by the General Assembly, and any funds that may be received
183 for the credit of the Fund from any other source shall be paid into the state treasury and credited
184 to the Fund. Interest earned on moneys in the Fund shall remain in the Fund and be credited to

185 it. Any moneys remaining in the Fund, including interest thereon, at the end of each fiscal year
186 shall not revert to the general fund but shall remain in the Fund.

187 The amounts dedicated to the Fund pursuant to §§ 58.1-638, 58.1-802.2, and 58.1-1742
188 shall be deposited monthly by the Comptroller into the Fund and thereafter distributed to the
189 Northern Virginia Transportation Authority as soon as practicable for use in accordance with §
190 ~~15.2-4838.1~~ 33.2-XXX. If the Authority determines that such moneys distributed to it exceed
191 the amount required to meet the current needs and demands to fund transportation projects
192 pursuant to § ~~15.2-4838.1~~ 33.2-XXX, the Authority may invest such excess moneys to the same
193 extent as provided in § ~~33.1-23.03:5~~ 33.2-XXX for excess funds in the Transportation Trust
194 Fund.

195 The amounts deposited into the Fund and the distribution and expenditure of such
196 amounts shall not be used to calculate or reduce the share of ~~local~~, federal, ~~or~~ state, or local
197 revenues otherwise available to participating jurisdictions. Further, such revenues and moneys
198 shall not be included in any computation of, or formula for, a locality's ability to pay for public
199 education, upon which appropriations of state revenues to local governments for public
200 education are determined.

201 **Drafting note: Existing § 15.2-4838.01 was added by Chapter 766 of the Acts of**
202 **Assembly of 2013 and is retained and relocated here with the Northern Virginia**
203 **Transportation Authority chapter. Only technical changes are made.**

204 § ~~15.2-4838.1~~ 33.2-XXX. Use of certain revenues by the Authority.

205 A. All moneys received by the Authority and the proceeds of bonds issued pursuant to §
206 ~~15.2-4839~~ 33.2-XXX shall be used by the Authority solely for transportation purposes
207 benefiting those counties and cities that are embraced by the Authority.

208 B. 1. Except as provided in subdivision 2, 30 percent of the revenues received by the
209 Authority under subsection A shall be distributed on a pro rata basis, with each ~~locality's~~
210 county's or city's share being the total of such fee and taxes received by the Authority that are
211 generated or attributable to the ~~locality~~ county or city divided by the total of such fee and taxes

212 received by the Authority. Of the revenues distributed pursuant to this subsection, as determined
213 solely by the applicable ~~locality county or city~~, such revenues shall be used for additional urban
214 or secondary ~~road~~ highway construction; for other capital improvements that reduce congestion;
215 for other transportation capital improvements ~~which that~~ have been approved by the most recent
216 ~~long-range~~ long-range transportation plan adopted by the Authority; or for public transportation
217 purposes. None of the revenue distributed by this subsection may be used to repay debt issued
218 before July 1, 2013. Each ~~locality county or city~~ shall create a separate, special fund in which all
219 revenues received pursuant to this subsection and from the tax imposed pursuant to § 58.1-
220 3221.3 shall be deposited. Each ~~locality county or city~~ shall provide annually to the Northern
221 Virginia Transportation Authority sufficient documentation as required by the Authority
222 showing that the funds distributed under this subsection were used as required by this
223 subsection.

224 2. If a ~~locality county or city~~ has not deposited into its special fund (i) revenues from the
225 tax collected under § 58.1-3221.3 pursuant to the maximum tax rate allowed under that section
226 or (ii) an amount, from sources other than moneys received from the Authority, that is
227 equivalent to the revenue that the ~~locality county or city~~ would receive if it was imposing the
228 maximum tax authorized by § 58.1-3221.3, then the amount of revenue distributed to the
229 ~~locality county or city~~ pursuant to subdivision 1 shall be reduced by the difference between the
230 amount of revenue that the ~~locality county or city~~ would receive if it was imposing the
231 maximum tax authorized by such section and the amount of revenue deposited into its special
232 fund pursuant to clause (i) or (ii), as applicable. The amount of any such reduction in revenue
233 shall be redistributed according to subsection C. The provisions of this subdivision shall be
234 ongoing and apply over annual periods as determined by the Authority.

235 C. 1. The remaining 70 percent of the revenues received by the Authority under
236 subsection A, plus the amount of any revenue to be redistributed pursuant to subsection B, shall
237 be used by the Authority solely to fund (i) transportation projects selected by the Authority that
238 are contained in the regional transportation plan in accordance with § ~~15.2-4830~~ 33.2-XXX and

239 that have been rated in accordance with § ~~33.1-13.03:1~~ 33.2-XXX or (ii) mass transit capital
240 projects that increase capacity. For only those regional funds received in fiscal year 2014, the
241 requirement for rating in accordance with § ~~33.1-13.03:1~~ 33.2-XXX shall not apply. The
242 Authority shall give priority to selecting projects that are expected to provide the greatest
243 congestion reduction relative to the cost of the project and shall document this information for
244 each project selected. Such projects selected by the Authority for funding shall be located (a)
245 only in localities embraced by the Authority or (b) in adjacent localities but only to the extent
246 that such extension is an insubstantial part of the project and is essential to the viability of the
247 project within the ~~localities~~ counties and cities embraced by the Authority.

248 2. All transportation projects undertaken by the Northern Virginia Transportation
249 Authority shall be completed by private contractors accompanied by performance measurement
250 standards, and all contracts shall contain a provision granting the Authority the option to
251 terminate the contract if contractors do not meet such standards. Notwithstanding the foregoing,
252 any ~~locality~~ county or city may provide engineering services or right-of-way acquisition for any
253 project with its own forces. The Authority shall avail itself of the strategies permitted under the
254 Public-Private Transportation Act (§ ~~56-556~~ 33.2-XXX et seq.) whenever feasible and
255 advantageous. The Authority is independent of any state or local entity, including the ~~Virginia~~
256 ~~Department of Transportation (VDOT)~~ and the Commonwealth Transportation Board (~~CTB~~),
257 but the Authority, ~~VDOT~~ the Department, and ~~CTB~~ the Commonwealth Transportation Board
258 shall consult with one another to avoid duplication of efforts and, at the option of the Authority,
259 may combine efforts to complete specific projects. Notwithstanding the foregoing, at the request
260 of the Authority, ~~VDOT~~ the Department may provide the Authority with engineering services or
261 right-of-way acquisition for the project with its own forces.

262 3. With regard to the revenues distributed under subdivision 1, each ~~locality's~~ county's or
263 city's total long-term benefit shall be approximately equal to the proportion of the total of the
264 fees and taxes received by the Authority that are generated by or attributable to the ~~locality~~
265 county or city divided by the total of such fees and taxes received by the Authority.

266 D. For road construction and improvements pursuant to subsection B, the Department ~~of~~
267 ~~Transportation~~ may, on a reimbursement basis, provide the ~~locality county or city~~ with planning,
268 engineering, right-of-way, and construction services for projects funded in whole by the
269 revenues provided to the ~~locality county or city~~ by the Authority.

270 **Drafting note: Existing § 15.2-4838.1 was amended by Chapter 766 of the Acts of**
271 **Assembly of 2013. Those changes are shown in the existing language here. Only technical**
272 **changes are made.**

273 § ~~15.2-4839~~ 33.2-XXX. Authority to issue bonds.

274 The Authority may issue bonds and other evidences of debt as may be authorized by this
275 section or other law. The provisions of ~~Article 5 (§ 15.2-4519 et seq.) of Chapter 45 of this title~~
276 [new cite] shall apply, mutatis mutandis, to the issuance of such bonds or other debt. The
277 Authority may issue bonds or other debt in such amounts as it deems appropriate. The bonds
278 may be supported by any funds available except that funds from tolls collected pursuant to
279 subdivision 7 of § ~~15.2-4840~~ 33.2-XXX shall be used only as provided in that subdivision.

280 **Drafting note: Technical changes.**

281 § ~~15.2-4840~~ 33.2-XXX. Other duties and responsibilities of Authority.

282 In addition to other powers ~~herein~~ granted in this chapter, the Authority shall have the
283 following duties and responsibilities:

284 1. ~~General~~ Providing general oversight of regional programs involving mass transit or
285 congestion mitigation, including, ~~but not necessarily limited to~~, carpooling, vanpooling, and
286 ridesharing;

287 2. ~~Long-range~~ Providing long-range regional planning, both financially constrained and
288 unconstrained;

289 3. Recommending to federal, state, and regional, ~~and federal~~ agencies regional
290 transportation priorities, including public-private transportation projects, and funding
291 allocations;

292 4. Developing, in coordination with affected counties and cities, regional priorities and
293 policies to improve air quality;

294 5. Allocating to priority regional transportation projects ~~any~~ funds made available to the
295 Authority and, at the discretion of the Authority, directly overseeing such projects;

296 6. Recommending to the Commonwealth Transportation Board priority regional
297 transportation projects for receipt of federal and state funds;

298 7. Imposing, collecting, and setting the amount of tolls for use of facilities in the area
299 embraced by the Authority, when the facility is either newly constructed or reconstructed solely
300 with revenues of the Authority or solely with revenues under the control of the Authority in
301 such a way as to increase the facility's traffic capacity, with the amount of ~~any~~ tolls variable by
302 time of day, day of the week, vehicle size or type, number of axles, or other factors as the
303 Authority may deem proper, and with all such tolls to be used for programs and projects that are
304 reasonably related to or benefit the users of the applicable facility, including, ~~but not limited to,~~
305 for the debt service and other costs of bonds whose proceeds are used for such construction or
306 reconstruction;

307 8. ~~General~~ Providing general oversight of regional transportation issues of a
308 multijurisdictional nature, including ~~but not limited to~~ intelligent transportation systems,
309 signalization, and preparation for and response to emergencies;

310 9. Serving as an advocate for the transportation needs of Northern Virginia before the
311 state and federal governments;

312 10. Applying to and negotiating with the government of the United States, the
313 Commonwealth ~~of Virginia~~, or any agency, instrumentality, or political subdivision thereof, for
314 grants and ~~any~~ other funds available to carry out the purposes of this chapter and receiving,
315 holding, accepting, and administering from any source gifts, bequests, grants, aid, or
316 contributions of money, property, labor, or other things of value to be held, used, and applied to
317 carry out the purposes of this chapter subject, however, to any ~~conditions~~ condition upon which
318 gifts, bequests, grants, aid, or contributions are made. Unless otherwise restricted by the terms

319 of the gift, bequest, or grant, the Authority may sell, exchange, or otherwise dispose of such
320 money, securities, or other property given or bequeathed to it in furtherance of its purposes;

321 11. Acting as a "responsible public entity" for the purpose of the acquisition,
322 construction, improvement, maintenance ~~and/or,~~ operation, or any combination thereof of a
323 "qualifying transportation facility" under the Public-Private Transportation Act of 1995 (§ ~~56-~~
324 556 33.2-XXX et seq.); and

325 12. ~~To decide~~ Deciding on and ~~vote~~ voting to impose certain fees and taxes authorized
326 under law for imposition or assessment by the Authority, provided that any such fee or tax
327 assessed or imposed is assessed or imposed in all counties and cities embraced by the Authority.
328 The revenues from such certain fees and taxes shall be kept in a separate account and shall be
329 used only for the purposes provided in this chapter.

330 **Drafting note: Technical changes.**

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