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TITLE 33.2, CHAPTER 1

~~TITLE 33.1~~ 33.2.

~~HIGHWAYS, BRIDGES AND FERRIES AND OTHER SURFACE TRANSPORTATION~~
SYSTEMS.

CHAPTER 1.

GENERAL PROVISIONS; ~~COMMONWEALTH TRANSPORTATION BOARD AND~~
HIGHWAYS GENERALLY; METROPOLITAN PLANNING ORGANIZATIONS.

Drafting note: The name of the title is amended to reflect the inclusion of rail and public transportation in addition to highways, bridges, and ferries. The name of Chapter 1 is amended to reflect additional content, and a new Article 1 is added to Chapter 1 in order to include a title-wide definitions section and pull general title provisions together at the beginning of the title. Sections in the existing Chapter 1 are arranged based on the person or entity responsible for the directed function, i.e., the Commonwealth Transportation Board, Commissioner of Highways, or Department of Transportation. Sections 33.1-221 through 33.1-221.1:8 and 33.1-223 are moved from the existing Article 15 to the proposed Chapter XXX, Transportation Funding.

Article 1.

Definitions; General Provisions.

§ 33.2-100. Definitions.

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

"Asset management" means a systematic process of operating and maintaining the state system of highways by combining engineering practices and analysis with sound business practices and economic theory to achieve cost-effective outcomes.

"Board" means the Commonwealth Transportation Board.

"Commissioner" means the Commissioner of Highways.

"Department" means the Department of Transportation.

27 "Federal-aid systems" are the Interstate System and the National Highway System as
28 defined in 23 U.S.C § 103.

29 "Highway" means the entire width between the boundary lines of every way or place
30 open to the use of the public for purposes of vehicular travel in the Commonwealth.

31 "Interstate System" is as defined in 23 U.S.C. § 103(c). The "Interstate System" also
32 includes highways or highway segments in the Commonwealth that constitute a part of the
33 Dwight D. Eisenhower National System of Interstate and Defense Highways as authorized and
34 designated in accordance with § 7 of the Federal-Aid Highway Act of 1944 and § 108(a) of the
35 Federal-Aid Highway Act of 1956 and are declared by resolution of the Commonwealth
36 Transportation Board to be portions of the Interstate System.

37 "Locality" means a county, city, or town.

38 "Maintenance" means (i) ordinary maintenance; (ii) maintenance replacement; (iii)
39 operations that include traffic signal synchronization, incident management, and other
40 intelligent transportation system functions; and (iv) any other categories of maintenance that
41 may be designated by the Commissioner.

42 "National Highway System" means the same as that term is defined in 23 U.S.C. §
43 103(b).

44 "Primary highway" means any highway in or component of the primary state highway
45 system.

46 "Primary state highway system" or "primary system of state highways," also referred to
47 as the "State Highway System," consists of all highways and bridges under the jurisdiction and
48 control of the Commonwealth Transportation Board and the Commissioner of Highways,
49 including extensions of such system within municipalities and not in the secondary state
50 highway system.

51 "Public transportation" or "mass transit" means passenger transportation by rubber-tired,
52 rail, or other surface conveyance that provides shared ride services open to the general public on
53 a regular and continuing basis. "Public transportation" or "mass transit" does not include school

54 buses, charter or sight-seeing services, vehicular ferry service that serves as a link in the
55 highway network, or human service agency or other client-restricted transportation.

56 "Roadway" means that portion of a highway improved, designed, or ordinarily used for
57 vehicular travel, exclusive of the shoulder. A highway may include two or more roadways if
58 divided by a physical barrier or barriers or unpaved areas.

59 "Secondary highway" means any highway in or component of the secondary state
60 highway system.

61 "Secondary state highway system" or "secondary system of state highways" consists of
62 all public highways, causeways, bridges, landings, and wharves in the several counties of the
63 Commonwealth not included in the primary state highway system.

64 "Secretary" means the Secretary of Transportation.

65 "Urban highway system" consists of public highways in the cities and towns of the
66 Commonwealth, not included in the primary or secondary state highway systems, where the city
67 or town has assumed responsibility for the design, right-of way acquisition, and construction of
68 such highways after the Commonwealth Transportation Board has adopted a resolution, upon
69 the request of a city or town, and the Commissioner of Highways has entered into an agreement
70 with such city or town.

71 **Drafting note: Unlike many other titles of the Code, existing Title 33.1 does not**
72 **have a title-wide definitions section. The definitions in this new section are of a general**
73 **nature and are used throughout the title. Definitions that apply specifically to a particular**
74 **chapter, article, or section remain with the respective chapter, article, or section.**

75 **The definitions of "asset management" and "maintenance" are based on**
76 **definitions in existing § 33.1-23.03. The definition of "highway" is based on the definition**
77 **in § 46.2-100. The definition of "public transportation" or "mass transit" is based on the**
78 **definition in existing § 33.1-12. The definition of "roadway" is from the existing Virginia**
79 **Highway Corporation Act (§ 56-536 et seq.) and is identical to the definition found in**
80 **§ 46.2-100. The definition of "primary state highway system" is derived from existing**

81 §§ 33.1-25 and 33.1-348. The definition of "Interstate System" is based on the definitions
82 in §§ 33.1-48 and 33.1-348. The definition of "secondary state highway system" is based on
83 definitions in existing §§ 33.1-348 and 33.1-67. The definition of "urban highway system"
84 is based on existing § 33.1-23.3.

85 § ~~33.1-183~~ 33.2-101. Statutes declaring streams and rivers to be highways continued.

86 All statutes heretofore enacted declaring certain streams and rivers to be highways and
87 providing for removing obstructions therefrom and from other streams shall continue in force.

88 **Drafting note: No change. This section has not been amended since the 1950 Code**
89 **of Virginia and could be repealed, since other statutes separately deal with issues such as**
90 **navigation of water, not obstructing the passage of fish, etc.**

91 § ~~33.1-223.2:5~~ 33.2-102. Governor to waive certain state statutory mandates and
92 regulations to expedite certain highway construction projects.

93 Notwithstanding any contrary provision of ~~the this~~ Code ~~of Virginia~~, whenever the
94 Governor finds in his emergency preparedness planning that certain transportation
95 improvements are necessary to avert or respond to a natural disaster, prevent or respond to an
96 act of terrorism, or contribute to military operations during a time of war or state of emergency
97 as defined in § 44-146.16, the Governor may, to the maximum extent not inconsistent with
98 federal law, waive statutory mandates and regulations of any state agency, institution,
99 instrumentality, or political subdivision concerning the issuance of permits or related approvals
100 in order to expedite the construction, reconstruction, alteration, or relocation of such highways,
101 bridges, tunnels, and associated facilities or structures as he deems necessary.

102 **Drafting note: Technical changes.**

103 § ~~33.1-215~~ 33.2-103. Federal aid.

104 The assent of the Commonwealth ~~of Virginia~~ is hereby given to the terms and provisions
105 of an act of Congress, approved July 11, 1916, entitled "An act to provide that the United States
106 shall aid the states in the construction of rural post roads, and for other purposes," and the
107 Commissioner of Highways shall have prepared and submit all ~~such~~ plans, specifications, and

108 data relating to the construction of roads and bridges as may be required under the terms of ~~such~~
109 ~~the~~ act and may do any and all things necessary to carry out ~~the-its~~ provisions ~~of such act of~~
110 ~~Congress~~.

111 **Drafting note: Use of the word "road" is retained so as not to interfere with federal**
112 **aid. Technical changes are made.**

113 § ~~33.1-216~~ 33.2-104. Authority of cities and towns and certain counties in connection
114 with federal aid.

115 The cities and towns of ~~this~~ the Commonwealth and also the several counties ~~which~~ that
116 have withdrawn from the provisions of Chapter 415 of the Acts of Assembly of 1932, as
117 amended, may comply fully with the provisions of the present or future federal-aid road acts,
118 and to this end they may enter into all contracts or agreements with the United States
119 government or the appropriate agencies thereof relating to the survey, construction,
120 improvement, and maintenance of roads, streets, and highways under their control and may do
121 all other things necessary to carry out fully the cooperation contemplated and provided for by
122 the present or future acts of Congress relating to the construction, improvement, and
123 maintenance of roads, streets, and highways.

124 Such ~~cities, towns or counties~~ localities may also cooperate with the Board in connection
125 with any project for the survey, construction, improvement, or maintenance of any road, street,
126 or highway under their jurisdiction and control ~~which~~ that is eligible for federal aid under any
127 present or future federal-aid road acts, and may by appropriate agreement or contract authorize
128 the Board to act on their behalf in any dealings necessary with the United States or any agency
129 thereof and may authorize the Board to carry out such survey, construction, improvement, or
130 maintenance work on such projects either with or without participation ~~therein~~ by the ~~city, town~~
131 ~~or county~~ locality. Whenever the Board is given such authority by any such ~~city, town or county~~
132 locality, it may do all things contemplated and provided for by present or future federal-aid road
133 acts and the agreements made with such ~~city, town or county~~ locality.

134 **Drafting note: Technical changes are made, including changing the reference from**
135 **"county, city, or town" to "locality" to maintain consistency throughout this title and this**
136 **Code. Use of the word "road" is retained so as not to interfere with federal aid.**

137 ~~§ 33.1-13.04~~ 33.2-106. Certified mail; subsequent mail or notices may be sent by regular
138 mail.

139 Whenever in this title the Board, the Commissioner of Highways, or the Department is
140 required to send any mail or notice by certified mail and such mail or notice is sent certified
141 mail, return receipt requested, then any subsequent, identical mail or notice that is sent by the
142 Board, the Commissioner of Highways, or the Department may be sent by regular mail.

143 **Drafting note: Technical changes.**

144 ~~§ 33.1-190.2~~ 33.2-107. ~~Expenditure of funds prohibited in connection with certain signs~~
145 English units of measure.

146 A. Neither the Commissioner of Highways nor the Department shall expend any funds
147 whatsoever for the purpose of (i) converting the units of measure displayed on any highway sign
148 from English units of measure to metric units of measure, (ii) replacing any highway sign
149 displaying English units of measure with one bearing metric units of measure, or (iii) replacing
150 any highway sign displaying English units of measure with one bearing both English and metric
151 units of measure.

152 ~~§ 33.1-190.3. Use of English units of measure in design or advertisement of projects.~~

153 B. ~~The Commonwealth Transportation~~ Board, Commissioner of Highways, and
154 ~~Department of Transportation~~ shall use English units of measure in the design, advertisement,
155 construction, and preparation of plans and specifications of every road highway, bridge, tunnel,
156 or overpass construction or maintenance project. However, nothing in this ~~action~~ section shall
157 prevent the Board, Commissioner of Highways, or Department from continuing the use of
158 metric units of measure in the design, advertisement, or construction of any project or the
159 preparation of plans or specifications for a project if, prior to July 1, 1999, metric units of
160 measure were used in the design, advertisement, plans, or specifications for the project.

161 **Drafting note: Two sections dealing with use of traditional English measurements**
162 **are consolidated into one section. References are changed from "road" to "highway" to**
163 **maintain consistency throughout this title. Technical changes are made.**

164 § ~~33.1-184~~ 33.2-108. Evidence as to existence of a public ~~road~~ highway.

165 When a way has been worked by ~~road~~ highway officials as a public ~~road~~ highway and is
166 used by the public as such, proof of these facts shall be prima facie evidence that the same is a
167 public ~~road~~ highway. And when a way has been regularly or periodically worked by ~~road~~
168 highway officials as a public ~~road~~ highway and used by the public as such continuously for a
169 period of ~~twenty~~ 20 years, proof of these facts shall be conclusive evidence that the same is a
170 public ~~road~~ highway. In all such cases, the center of the general line of passage, conforming to
171 the ancient landmarks where such exist, shall be presumed to be the center of the way and in the
172 absence of proof to the contrary, the width shall be presumed to be ~~thirty~~ 30 feet.

173 Nothing ~~herein~~ contained in this section shall be construed to convert into a public ~~road~~
174 highway a way of which the use by the public has been or is permissive and the work thereon by
175 the ~~road~~ highway officials has been or is done under permission of the owner of the servient
176 tenement.

177 **Drafting note: References are changed from "road" to "highway" to maintain**
178 **consistency throughout this title. Technical changes are made.**

179 § ~~33.1-223.2:24~~ 33.2-111. Secretary of Transportation to submit annual report on actions
180 taken to increase transit use, etc.

181 The Secretary ~~of Transportation~~, in consultation and cooperation with the Commissioner
182 of Highways and the Director of the Department of Rail and Public Transportation, shall
183 annually, not later than November 1, submit to the General Assembly a report on actions taken
184 by the Commonwealth, local governments, and regional transportation authorities to (i) increase
185 transit use and (ii) reduce highway congestion and use of single occupant vehicles through
186 programs and initiatives involving transportation demand management, transit use,

187 telecommuting, carpooling, construction of commuter parking facilities, use of flexible work
188 hours, and telecommunications technology.

189 **Drafting note: Technical changes.**

190 | § ~~33.1-223.2:26~~ 33.2-112. Secretary of Transportation to conduct periodic examination
191 of process.

192 | The Secretary ~~of Transportation~~ shall, at least once every four years, cause to be
193 conducted an examination of the approval process for maintenance and improvements within
194 the secondary and urban highway systems ~~of state highways~~ and adopt policies and procedures
195 to reduce review redundancy and to allow approval at the district office level to the maximum
196 extent practical.

197 **Drafting note: Technical changes.**

198 | § ~~33.1-223.2:28~~ 33.2-113. Public hearings prior to undertaking ~~certain~~ projects requested
199 by institutions of higher education.

200 | Before any safety-related or congestion management-related highway project requested
201 by any college, university, or other institution of higher education is undertaken in the
202 Commonwealth, the college, university, or other institution of higher education shall conduct at
203 least one public hearing to afford owners of property in the vicinity of the project and users of
204 highways in the vicinity of or likely to be affected by the project an opportunity to submit
205 comments and make their views known regarding the project.

206 | Not less than 30 days prior to any such hearing, a notice of the time and place of the
207 hearing shall also be published by the college, university, or other institution of higher education
208 at least once in a newspaper published or having a general circulation in the ~~county, city, or~~
209 town locality in which the project is to be located and established.

210 **Drafting note: The catchline is amended to provide more complete information and**
211 **a reference is changed from "county, city, or town" to "locality" to maintain consistency**
212 **throughout this title.**

213 § ~~33.1-13.1~~ 33.2-114. Policy of the Commonwealth regarding use of highways by
214 motorcycles; discrimination by political subdivisions prohibited.

215 In formulating transportation policy; promulgating regulations; allocating funds; and
216 planning, designing, constructing, equipping, operating, and maintaining transportation
217 facilities, no action of the ~~Commonwealth Transportation~~ Board, the Commissioner of
218 Highways, or the ~~Virginia Department of Transportation~~ shall in any way have the effect of
219 discriminating against motorcycles, motorcycle operators, or motorcycle passengers. No
220 regulation or action of the Board, Commissioner of Highways, or Department shall have the
221 effect of enacting a prohibition or imposing a requirement that applies only to motorcycles or
222 motorcyclists; and the principal purpose of which is to restrict or inhibit access of motorcycles
223 and motorcyclists to any highway, bridge, tunnel, or other transportation facility.

224 The provisions of this section shall also apply to transportation facilities and projects
225 undertaken or operated by ~~counties, cities, towns,~~ localities and other political subdivisions of
226 the Commonwealth where public funds have been used in whole or in part to plan, design,
227 construct, equip, operate, or maintain the facility or project.

228 **Drafting note: A reference is changed from "counties, cities, or towns" to**
229 **"localities" to maintain consistency throughout this title. Technical changes are made.**

230 § ~~33.1-202~~ 33.2-115. ~~Landowners may erect and maintain gates~~ Gates across private
231 roads; leaving gates open; gates across private roads leading to forestlands; penalties.

232 A. Any person owning land over which another or others have a private road or right-of-
233 way may, except when it is otherwise provided by contract, erect and maintain gates across such
234 roads or right-of-way at all points at which fences extend to such roads on each side thereof;
235 provided, ~~however,~~ that a court of competent jurisdiction may, upon petition, where it is alleged
236 and proved by petitioner that the gates have been willfully and maliciously erected, ~~may~~ require
237 the ~~said~~ landowner to make such changes ~~therein~~ as may be necessary and reasonable in the use
238 of ~~said~~ such roads for both the landowner and the petitioner.

239 § ~~33.1-203~~. ~~Leaving gates open; penalty.~~

240 B. If any person without permission of the owners of such gate or of the land on which
241 the ~~same gate~~ is located, leaves ~~such the~~ gate open, he ~~shall be~~ is guilty of a Class 1
242 misdemeanor.

243 ~~§ 33.1-204. Gate or other obstruction across private roadway leading to forestlands;~~
244 ~~penalty for removal or leaving open or unlocked.~~

245 C. The owners of forest and timberlands may substantially obstruct or close private and
246 seldom used ~~roadways roads~~ leading to or into such forest or timberlands from the public ~~roads~~
247 highways of ~~this the~~ Commonwealth at points at or near which ~~such roads the highways~~ enter
248 their property or forestlands; and, in all cases where any such private ~~roadway road~~ is subject to
249 an easement for travel for the benefit of other lands not regularly and continuously inhabited,
250 the owner of ~~the said such~~ forest or timberlands may obstruct the ~~roadway road~~ with a gate,
251 chain, cable, or other removable obstruction, lock the ~~said~~ obstruction, and, after furnishing a
252 key to the lock to the owner or owners of the land or lands to which the forestlands are servient,
253 require those entitled to the easement to unlock and relock such obstruction upon making use of
254 the ~~roadway road~~.

255 There shall be no penalty upon the owner of such forest or timberlands for failure to
256 erect such obstructions, but, if such obstruction is erected, any person without the permission of
257 the ~~said~~ owner, ~~destroying, removing or leaving who destroys, removes, or leaves~~ the
258 obstruction open, or unlocked, in cases where the obstruction is locked by ~~said the~~ owner and
259 the keys are furnished as ~~herein~~ provided in this subsection, ~~shall be~~ is guilty of a misdemeanor,
260 ~~and, if upon trial is found guilty, shall be fined a sum punishable by a fine of~~ not less than \$25
261 nor more than \$500; ~~provided,~~ that in all cases of forest fires upon the owner's lands or those
262 adjacent or near thereto, the expressed permission of the owner shall be deemed given to all
263 persons aiding in extinguishing or preventing the spreading of the fire, to remove ~~said the~~
264 obstructions, including the breaking of locks.

265 **Drafting note: Three sections dealing with road gates are consolidated into one and**
266 **technical changes are made to modernize language. References are changed from "road"**

267 to "highway" to maintain consistency throughout this title. Use of the term "roadway" is
268 changed to "road," since its use connotes a private road, and not "roadway" as defined in
269 § 33.2-100. In describing the misdemeanor in subsection B, "Class 1" is added in keeping
270 with the Code Commission guidance that since misdemeanors with no stated punishment
271 or maximum punishment are designated as Class 1 misdemeanors according to § 18.2-12,
272 they should be stated as such in the Code when sections are amended or revised.

273 § ~~33.1-223.2:6~~ 33.2-116. Funding and undertaking of pedestrian~~and/or~~ or bicycle
274 projects apart from highway projects not prohibited.

275 Nothing contained in this chapter and no regulation promulgated by the Commissioner
276 of Highways or the ~~Commonwealth Transportation~~ Board shall be construed to prohibit or limit
277 the ability of the ~~Commonwealth Transportation~~ Board or the Department to fund and undertake
278 pedestrian~~and/or~~ or bicycle projects except in conjunction with highway projects.

279 **Drafting note: Technical changes.**

280 § ~~33.1-205~~ 33.2-117. Sidewalks and walkways for pedestrian traffic.

281 The ~~Commonwealth Transportation~~ Board may construct such sidewalks or walkways
282 on the bridges and along the highways under its jurisdiction as it deems necessary for the
283 protection of pedestrian traffic.

284 All the provisions of general law with respect to the acquisition of lands and interests
285 therein and the construction, reconstruction, alteration, improvement, and maintenance of
286 highways in the primary and secondary state highway systems~~of state highways~~, including the
287 exercise of the power of eminent domain by the ~~Commonwealth Transportation~~ Board and the
288 Commissioner of Highways, shall be applicable to such sidewalks and walkways.

289 **Drafting note: Technical changes.**

290 § ~~33.1-214~~ 33.2-118. Contributions by ~~towns or~~ cities or towns towards ~~road~~ highway
291 building, bridges, etc.

292 Any ~~incorporated town or~~ city or town, acting by and through its ~~council governing~~
293 body, may, ~~when in the judgment of such council such action will tend to promote the material~~

294 ~~interest of such town or city~~, contribute funds or other aid within the control of ~~such town or the~~
295 city or town toward the building or improvement of permanent public ~~roads~~ highways leading to
296 ~~such town or the~~ city or town, or of bridges, or to the purchase of bridges, or the establishment,
297 maintenance, or operation of ferries, when in the judgment of such council such action will tend
298 to promote the material interest of such city or town. But no ~~such~~ contribution shall be made
299 toward the building or improvement of any ~~such road~~ highway or bridge, or the purchase of
300 bridges, or ~~for such any~~ ferry, at any point more than ~~forty~~ 40 miles beyond the corporate limits
301 of ~~such town or the~~ city or town, as measured along the route of such ~~road~~ highway.

302 **Drafting note: Changes were made to refer to municipalities in order of largest to**
303 **smallest and since all towns in the Commonwealth are incorporated, "incorporated" is**
304 **removed when describing towns throughout this title. Other changes are technical and for**
305 **clarity and modernization of language.**

306 Article ~~1~~ 2.

307 Commonwealth Transportation Board; Membership and Organization.

308 § ~~33.1-1~~ 33.2-120. ~~State Highway and Transportation Board continued as~~
309 Commonwealth Transportation Board; number and terms of members; removal from office;
310 ~~Commonwealth Transportation Commissioner continued as Commissioner of Highways;~~
311 vacancies.

312 ~~The State Highway and Transportation Board, formerly known as the State Highway and~~
313 ~~Transportation Commission, is continued and shall hereafter be known as the Commonwealth~~
314 ~~Transportation Board. Wherever either "Commission" or "Board" is used in this title referring to~~
315 ~~the State Highway and Transportation Board or the State Highway and Transportation~~
316 ~~Commission, it shall mean the Commonwealth Transportation Board.~~

317 The Commonwealth Transportation Board is established as a policy board, within the
318 meaning of § 2.2-2100, in the executive branch of state government. The Board shall ~~consist of~~
319 ~~seventeen~~ have a total membership of 17 members: that shall consist of the Secretary of
320 Transportation, the Commissioner of Highways, and the Director of the Department of Rail and

321 Public Transportation; servicing ex officio and ~~fourteen~~ 14 nonlegislative citizen members. The
322 nonlegislative citizen members shall be ~~(i)~~ appointed by the Governor as provided in § ~~33.1-2~~
323 ~~33.2-XXX~~, ~~(ii)~~ subject to confirmation by the General Assembly, and ~~(iii) removable from~~
324 ~~office during their respective terms by~~ shall serve at the pleasure of the Governor ~~at his pleasure~~.
325 Appointments of nonlegislative citizen members shall be for terms of four years commencing
326 ~~upon~~ on July 1, upon the expiration of the terms of the existing members, respectively. ~~The~~
327 ~~initial terms of the members appointed in January, 1987, shall commence when appointed and~~
328 ~~shall be for terms ending June 30, 1988, June 30, 1989, and June 30, 1990, respectively.~~
329 Vacancies shall be filled by appointment by the Governor for the unexpired term and shall be
330 effective until 30 days after the next meeting of the ensuing General Assembly and, if
331 confirmed, thereafter for the remainder of the term. No ~~person~~ nonlegislative citizen member
332 shall be eligible to serve more than two ~~successive consecutive four-year~~ terms of four years,
333 ~~other than the Secretary of Transportation, the Commissioner of Highways, and the Director of~~
334 ~~the Department of Rail and Public Transportation. A person heretofore or hereafter appointed to~~
335 ~~fill a vacancy may serve two additional successive terms. The remainder of any term to which a~~
336 ~~member is appointed to fill a vacancy shall not constitute a term in determining that member's~~
337 ~~eligibility for reappointment. Ex officio members of the Board shall serve terms coincident with~~
338 ~~their terms of office.~~

339 The Secretary ~~of Transportation~~ shall serve as ~~Chairman~~ chairman of the Board. The
340 Secretary shall have voting privileges only in the event of a tie. The Commissioner of Highways
341 shall serve as ~~Vice-Chairman~~ vice-chairman of the Board. The Commissioner of Highways shall
342 have voting privileges only in the event of a tie when he is presiding during the absence of the
343 ~~Chairman~~ chairman. The Director of the Department of Rail and Public Transportation shall
344 ~~serve without a vote~~ not have voting privileges.

345 ~~Whenever in this title and in the Code of Virginia "State Highway Commission" or~~
346 ~~"State Highway and Transportation Board" is used, it shall mean "Commonwealth~~
347 ~~Transportation Board"; "State Highway Commissioner" or "State Highway and Transportation~~

348 ~~Commissioner" or "Commonwealth Transportation Commissioner" shall mean Commissioner~~
349 ~~of Highways; and all references to "Department of Highways and Transportation" shall refer to~~
350 ~~the Department of Transportation.~~

351 **Drafting note: Nonessential references to former styles of the Commonwealth**
352 **Transportation Board are eliminated, and obsolete language regarding initial staggering**
353 **of terms is removed. Use of the term "nonlegislative citizen member" is derived from § 1-**
354 **225 and used in the recent establishment of boards and commissions by the General**
355 **Assembly. There are also technical changes to modernize language.**

356 ~~§ 33.1-2 33.2-121. Residence Appointment~~ requirements; statewide interest.

357 ~~Of such the members appointed to the~~ Board, one member shall be a resident of the
358 territory now included in the Bristol highway construction district, one in the Salem highway
359 construction district, one in the Lynchburg highway construction district, one in the Staunton
360 highway construction district, one in the Culpeper highway construction district, one in the
361 Fredericksburg highway construction district, one in the Richmond highway construction
362 district, one in the Hampton Roads highway construction district, and one in the Northern
363 Virginia highway construction district. The remaining five members shall be appointed from the
364 Commonwealth at large, ~~but provided that~~ at least two ~~shall~~ reside in ~~standard~~-metropolitan
365 statistical areas and ~~be are~~ designated as urban at-large members, and at least two ~~shall~~ reside
366 outside ~~standard~~-metropolitan statistical areas and ~~be are~~ designated as rural at-large members.
367 The at-large members shall be appointed to represent rural and urban transportation needs and to
368 be mindful of the concerns of seaports and seaport users, airports and airport users, railways and
369 railway users, and mass transit and mass transit users. Each appointed member ~~so appointed of~~
370 the Board shall be primarily mindful of the best interest of the Commonwealth at large primarily
371 instead of ~~those the interests~~ of the highway construction district from which chosen or of the
372 transportation interest represented.

373 **Drafting note: Technical changes include making the name for highway**
374 **construction districts consistent throughout this title. The change to the catchline is made**

375 to more accurately reflect the content of the section. The term "standard metropolitan
376 statistical area" was changed by the U.S. Office of Management and Budget and the U.S.
377 Census Bureau to "metropolitan statistical area" in 1983; removing the word "standard"
378 conforms the term to current usage. Each metropolitan statistical area must have at least
379 one urbanized area of 50,000 or more inhabitants. These terms are not recommended to be
380 used as urban-rural classifications.

381 [§ 33.1-5.](#)

382 **Drafting note: Repealed by Acts 1980, c. 728.**

383 [§ 33.1-6](#) [33.2-122](#). Meetings; [quorum](#); minutes.

384 The Board shall meet at least once ~~in~~ every three months and at such other times, on the
385 call of the chairman or of a majority of the members, as may be deemed necessary to transact
386 such business as may properly be brought before it. Six members shall constitute a quorum of
387 the Board for all purposes.

388 It shall be the duty of the Board to keep accurate minutes of all meetings of the Board, in
389 which shall be set forth all acts and proceedings of the Board in carrying out the provisions of
390 this title.

391 **Drafting note: Technical changes.**

392 [§ 33.1-10](#) [33.2-123](#). Salaries and expenses [of the Board](#); how paid.

393 All salaries and expenses [of the Board](#) shall be paid from the state treasury out of the
394 annual appropriation for the ~~Commonwealth Transportation~~ Board. Warrants for such salaries
395 and expenses shall be issued by the Comptroller on certificates of the Commissioner of
396 Highways to the parties entitled thereto; and shall be paid by the State Treasurer out of the funds
397 appropriated for that purpose.

398 **Drafting note: Technical changes.**

399 [§ 33.1-7](#) [33.2-124](#). Offices.

400 The main office of the Board shall be located in the City of Richmond. In the discretion
401 of the chairman, other offices may be established in the various [highway](#) construction districts
402 of the Commonwealth as may be necessary ~~or needful~~ to carry out the provisions of this title.

403 **Drafting note: Technical changes, including using the full name for highway**
404 **construction districts.**

405 § ~~33.1-9~~ [33.2-125](#). Oaths and bonds of members of Board.

406 ~~The members of the Commonwealth Transportation~~ [Each member of the](#) Board shall
407 [each](#), before entering upon the discharge of his duties, take an oath that he will faithfully and
408 honestly execute the duties of the office during his continuance therein, and each shall give a
409 bond in such penalty as may be fixed by the Governor conditioned upon the faithful discharge
410 of the duties of his office and the full and proper accounting for all public funds and property
411 coming into his possession or under his control. The premium on such bonds shall be paid out of
412 the state treasury out of the annual appropriation for the ~~Commonwealth Transportation~~ Board.

413 **Drafting note: Technical changes.**

414 § ~~33.1-4~~ [33.2-126](#). How testimony of members of Board and Commissioner [of](#)
415 [Highways](#) taken in civil proceedings.

416 No member of the ~~Commonwealth Transportation~~ Board or the Commissioner of
417 Highways shall be required to leave his office for the purpose of testifying in any suit, action, or
418 other civil proceeding involving any of ~~their~~ [his](#) official duties, but the deposition of any
419 member of the ~~Commonwealth Transportation~~ Board or the Commissioner of Highways may be
420 taken at the main office of the ~~Commission Board~~ in Richmond, after reasonable notice in
421 writing has been given to the adverse party.

422 Any deposition taken pursuant to this section may be read in the pending suit, action, or
423 other civil proceeding. However, on motion to the court, filed at least ~~ten~~ [10](#) days before the
424 commencement of the trial, the judge may, for good cause shown, require any member of the
425 Board or the Commissioner [of Highways](#) to attend and testify ore tenus.

426 **Drafting note: Technical changes.**

427 § ~~33.1-14~~ 33.2-XXX. Bookkeeping system.

428 The chairman of the Board shall, with the aid and advice of the Auditor of Public
429 Accounts, cause to be maintained a complete and modern system of bookkeeping for the
430 Department ~~of Transportation~~, and the books to be kept by the Department shall show in detail
431 all receipts and disbursements of the Department, the source of such receipts, and the purpose,
432 amount, and recipient of all disbursements.

433 **Drafting note: Technical changes.**

434 Article 3.

435 Commonwealth Transportation Board; Powers and Duties.

436 **Drafting note: This new Article 3 consolidates the powers and duties of the Board,**
437 **generally by splitting existing § 33.1-12 into multiple sections, each dealing with one major**
438 **power or duty of the Board, and pulling related sections from other parts of existing**
439 **Chapter 1 of Title 33.1 with such powers and duties. Existing § 33.1-12 is stricken here and**
440 **its parts are reordered and amended in this new Article 3 as old language to indicate**
441 **changes.**

442 ~~§ 33.1-12 General powers and duties of Board, etc.; definitions.~~

443 ~~The Commonwealth Transportation Board shall be vested with the following powers and~~
444 ~~shall have the following duties:~~

445 ~~(1) Location of routes. To locate and establish the routes to be followed by the roads~~
446 ~~comprising systems of state highways between the points designated in the establishment of~~
447 ~~such systems, except that such routes shall not include roads located within any local system of~~
448 ~~roads, within the urban system of highways, or those local roads in any county that has resumed~~
449 ~~full responsibility for all of the secondary system of highways within such county's boundaries~~
450 ~~pursuant to § 33.1-84.1. Such routes shall include corridors of statewide significance pursuant to~~
451 ~~§ 33.1-23.03.~~

452 ~~(2) Construction and maintenance contracts and activities related to passenger and~~
453 ~~freight rail and public transportation.~~

454 ~~(a) To let all contracts to be administered by the Virginia Department of Transportation~~
455 ~~or the Department of Rail and Public Transportation for the construction, maintenance, and~~
456 ~~improvement of the roads comprising systems of state highways and for all activities related to~~
457 ~~passenger and freight rail and public transportation in excess of \$5 million. The Commissioner~~
458 ~~of Highways shall have authority to let all Virginia Department of Transportation-administered~~
459 ~~contracts for highway construction, maintenance, and improvements up to \$5 million in value.~~
460 ~~The Director of the Department of Rail and Public Transportation shall have the authority to let~~
461 ~~contracts for passenger and freight rail and public transportation improvements up to \$5 million~~
462 ~~in value. The Commissioner of Highways is authorized to enter into agreements with localities,~~
463 ~~authorities, and transportation districts to administer projects and to allow those localities,~~
464 ~~authorities, and transportation districts to let contracts with no limit on contract value, and~~
465 ~~without prior concurrence of the Commissioner of Highways or the Board for highway~~
466 ~~construction, maintenance, and improvements within their jurisdictions, in accordance with~~
467 ~~those provisions of the Code of Virginia providing those localities, authorities, and~~
468 ~~transportation districts the ability to let such contracts. The Director of the Department of Rail~~
469 ~~and Public Transportation is authorized to enter into agreements with localities, authorities, and~~
470 ~~transportation districts to administer projects and to allow those localities, authorities, and~~
471 ~~transportation districts to let contracts with no limit on contract value, and without prior~~
472 ~~concurrence of the Director of the Department of Rail and Public Transportation or the Board~~
473 ~~for passenger and freight rail and public transportation activities within their jurisdictions, in~~
474 ~~accordance with those provisions of the Code of Virginia providing those localities, authorities,~~
475 ~~and transportation districts the ability to let such contracts. The Commissioner of Highways and~~
476 ~~the Director of the Department of Rail and Public Transportation shall report on their respective~~
477 ~~transportation contracting activities at least quarterly to the Board.~~

478 ~~(b) The Commonwealth Transportation Board may award contracts for the construction~~
479 ~~of transportation projects on a design-build basis. These contracts may be awarded after a~~
480 ~~written determination is made by the Commissioner of Highways or the Director of the~~

481 ~~Department of Rail and Public Transportation, pursuant to objective criteria previously adopted~~
482 ~~by the Board regarding the use of design-build, that delivery of the projects must be expedited~~
483 ~~and that it is not in the public interest to comply with the design and construction contracting~~
484 ~~procedures normally followed. Such objective criteria will include requirements for~~
485 ~~prequalification of contractors and competitive bidding processes. These contracts shall be of~~
486 ~~such size and scope to encourage maximum competition and participation by agency~~
487 ~~prequalified and otherwise qualified contractors. Such determination shall be retained for public~~
488 ~~inspection in the official records of the Department of Transportation or the Department of Rail~~
489 ~~and Public Transportation, as the case may be, and shall include a description of the nature and~~
490 ~~scope of the project and the reasons for the Commissioner's or Director's determination that~~
491 ~~awarding a design-build contract will best serve the public interest. The provisions of this~~
492 ~~section shall supersede contrary provisions of subsection D of § 2.2-4303 and § 2.2-4306.~~

493 ~~(e) For transportation construction projects valued in excess of \$100 million, the~~
494 ~~Commonwealth Transportation Board shall require that a financial plan be prepared. This plan~~
495 ~~shall include, but not be limited to, the following: (i) a complete cost estimate for all major~~
496 ~~project elements; (ii) an implementation plan with the project schedule and cost to complete~~
497 ~~information presented for each year; (iii) identified revenues by funding source available each~~
498 ~~year to meet project costs; (iv) a detailed cash-flow analysis for each year of the proposed~~
499 ~~project; and (v) efforts to be made to ensure maximum involvement of private enterprise and~~
500 ~~private capital.~~

501 ~~(d) The Commonwealth Transportation Board may award contracts for the provision of~~
502 ~~equipment, materials, and supplies to be used in construction of transportation projects on a~~
503 ~~fixed-price basis. Any such contract may provide that the price to be paid for the provision of~~
504 ~~equipment, materials, and supplies to be furnished in connection with the projects shall not be~~
505 ~~increased but shall remain fixed until completion of the projects specified in the contracts.~~
506 ~~Material components of any such contract for annual and multi-year programs, including but not~~

507 ~~limited to maintenance, may be fixed at the outset of the projects and until completion based on~~
508 ~~best achievable prices.~~

509 ~~(3) Traffic regulations. To make rules and regulations, from time to time, not in conflict~~
510 ~~with the laws of the Commonwealth, for the protection of and covering traffic on and the use of~~
511 ~~systems of state highways and to add to, amend or repeal the same.~~

512 ~~(4) Naming highways, bridges, interchanges, and other transportation facilities. To give~~
513 ~~suitable names to state highways, bridges, interchanges, and other transportation facilities, and~~
514 ~~change the names of any highways, bridges, interchanges, or other transportation facilities~~
515 ~~forming a part of the systems of state highways. The name of private entities, as defined in § 56-~~
516 ~~557, located within the Commonwealth shall not be used for such purposes unless such private~~
517 ~~entity pays to the Department of Transportation an annual naming rights fee as determined by~~
518 ~~the Board. The Department of Transportation shall place and maintain appropriate signs~~
519 ~~indicating the names of highways, bridges, interchanges, and other transportation facilities~~
520 ~~named by the Board or by the General Assembly. The costs of producing, placing, and~~
521 ~~maintaining these signs shall be paid by the counties, cities, and towns in which they are located~~
522 ~~or by the private entity whose name is attached to the highway, bridge, interchange, or other~~
523 ~~transportation facility. No name shall be given to any state highway, bridge, interchange, or~~
524 ~~other transportation facility by the Commonwealth Transportation Board unless and until the~~
525 ~~Commonwealth Transportation Board shall have received from the local governing body of the~~
526 ~~locality within which a portion of the facility to be named is located a resolution of that~~
527 ~~governing body requesting such naming, except in such cases where a private entity has~~
528 ~~requested such naming. No highway, bridge, interchange, or other transportation facility~~
529 ~~previously named by the Board or the General Assembly shall be eligible for renaming by a~~
530 ~~private entity, unless such naming incorporates the previous name. The Board shall develop and~~
531 ~~approve guidelines governing the naming of highways, bridges, interchanges, and other~~
532 ~~transportation facilities by private entities and the applicable fees for such naming rights. Such~~
533 ~~fees shall be deposited in the Highway Maintenance and Operating Fund.~~

534 ~~No name shall be eligible for the naming rights under this subdivision if it in any way~~
535 ~~reasonably connotes anything that (i) is profane, obscene, or vulgar; (ii) is sexually explicit or~~
536 ~~graphic; (iii) is excretory related; (iv) is descriptive of intimate body parts or genitals; (v) is~~
537 ~~descriptive of illegal activities or substances; (vi) condones or encourages violence; or (vii) is~~
538 ~~socially, racially, or ethnically offensive or disparaging.~~

539 ~~(5) Compliance with federal acts. To comply fully with the provisions of the present or~~
540 ~~future federal aid acts. The Board may enter into all contracts or agreements with the United~~
541 ~~States government and may do all other things necessary to carry out fully the cooperation~~
542 ~~contemplated and provided for by present or future acts of Congress in the area of~~
543 ~~transportation.~~

544 ~~(6) Information and statistics. To gather and tabulate information and statistics relating~~
545 ~~to transportation and disseminate the same throughout the Commonwealth. In addition, the~~
546 ~~Commissioner shall provide a report to the Governor, the General Assembly, the~~
547 ~~Commonwealth Transportation Board, and the public concerning the current status of all~~
548 ~~highway construction projects in the Commonwealth. This report shall be posted at least four~~
549 ~~times each fiscal year, but may be updated more often as circumstances allow. The report shall~~
550 ~~contain, at a minimum, the following information for every project in the Six Year~~
551 ~~Improvement Program: (i) project description; (ii) total cost estimate; (iii) funds expended to~~
552 ~~date; (iv) project timeline and completion date; (v) statement of whether project is ahead of, on,~~
553 ~~or behind schedule; (vi) the name of the prime contractor; (vii) total expenditures of federal~~
554 ~~transportation funds in each county and city; (viii) total expenditures of state transportation~~
555 ~~funds in each county and city; (ix) statewide totals for federal, state, and local funds expended~~
556 ~~for highways; (x) statewide totals for federal, state, and local funds expended for transit; (xi)~~
557 ~~total funds expended on intercity passenger and freight rail line and trains; and (xii) total funds~~
558 ~~expended in each federal and state programmatic category. Use of one or more Internet websites~~
559 ~~may be used to satisfy this requirement. Project specific information posted on the Internet shall~~
560 ~~be updated daily as information is available.~~

561 ~~(7) Policies and operation of Departments. To review and approve policies and~~
562 ~~transportation objectives of the Department of Transportation and the Department of Rail and~~
563 ~~Public Transportation, to assist in establishing such policies and objectives, to oversee the~~
564 ~~execution thereof, and to report thereon to the Commissioner of Highways and the Director of~~
565 ~~the Department of Rail and Public Transportation, respectively.~~

566 ~~(8) Cooperation with other agencies and local governments.~~

567 ~~(a) To cooperate with the federal government, the American Association of State~~
568 ~~Highway and Transportation Officials and any other organization in the numbering, signing and~~
569 ~~marking of highways, in the taking of measures for the promotion of highway safety, in research~~
570 ~~activities, in the preparation of standard specifications, in the testing of highway materials and~~
571 ~~otherwise with respect to transportation projects.~~

572 ~~(b) To offer technical assistance and coordinate state resources to work with local~~
573 ~~governments, upon their request, in developing sound transportation components for their local~~
574 ~~comprehensive plans.~~

575 ~~(9) Transportation.~~

576 ~~(a) To monitor and, where necessary, approve actions taken by the Department of Rail~~
577 ~~and Public Transportation pursuant to Chapter 10.1 (§ 33.1-391.1 et seq.) in order to ensure the~~
578 ~~efficient and economical development of public transportation, the enhancement of rail~~
579 ~~transportation, and the coordination of such rail and public transportation plans with highway~~
580 ~~programs.~~

581 ~~(b) To coordinate the planning for financing of transportation needs, including needs for~~
582 ~~highways, railways, seaports, airports, and public transportation and to set aside funds as~~
583 ~~provided in § 33.1-23.03:1. To allocate funds for these needs pursuant to §§ 33.1-23.1 and 58.1-~~
584 ~~638, the Board shall adopt a Six-Year Improvement Program of anticipated projects and~~
585 ~~programs by July 1 of each year. This program shall be based on the most recent official~~
586 ~~Transportation Trust Fund revenue forecast and shall be consistent with a debt management~~

587 ~~policy adopted by the Board in consultation with the Debt Capacity Advisory Committee and~~
588 ~~the Department of the Treasury.~~

589 ~~(c) To recommend to the General Assembly for their consideration at the next session of~~
590 ~~the General Assembly, objective criteria to be used by the Board in selecting those~~
591 ~~transportation projects to be advanced from the feasibility to the construction stage. If such~~
592 ~~criteria are enacted into law, such objectives shall apply to the interstate, primary, and urban~~
593 ~~systems of highways.~~

594 ~~(d) To enter into contracts with local districts, commissions, agencies, or other entities~~
595 ~~created for transportation purposes.~~

596 ~~(e) To promote increasing private investment in Virginia's transportation infrastructure,~~
597 ~~including but not limited to acquisition of causeways, bridges, tunnels, highways, and other~~
598 ~~transportation facilities.~~

599 ~~(f) To integrate land use with transportation planning and programming, consistent with~~
600 ~~the efficient and economical use of public funds. If the Board determines that a local~~
601 ~~transportation plan described in § 15.2-2223 or any amendment as described in § 15.2-2229 or a~~
602 ~~metropolitan regional long-range transportation plan or regional Transportation Improvement~~
603 ~~Program as described in § 33.1-223.2:25 is not consistent with the Commonwealth~~
604 ~~Transportation Board's Statewide Transportation Plan developed pursuant to § 33.1-23.03, the~~
605 ~~Six-Year Improvement Program adopted pursuant to subdivision (9)(b), and the location of~~
606 ~~routes to be followed by roads comprising systems of state highways pursuant to subdivision~~
607 ~~(1), the Board shall notify the locality of such inconsistency and request that the applicable plan~~
608 ~~or program be amended accordingly. If, after a reasonable time, the Board determines that there~~
609 ~~is a refusal to amend the plan or program, then the Board may reallocate funds that were~~
610 ~~allocated to the nonconforming project as permitted by state or federal law. If a locality or~~
611 ~~metropolitan planning organization requests the termination of a project or does not advance a~~
612 ~~project to the next phase of construction when requested by the Board and the Department of~~
613 ~~Transportation has expended state or federal funds, the locality or the localities within the~~

614 ~~metropolitan planning organization may be required to reimburse the Department of~~
615 ~~Transportation for all funds expended on the project. If a locality or metropolitan planning~~
616 ~~organization requests alterations to a project that, in the aggregate, exceeds 10 percent of the~~
617 ~~total project costs, the locality or the localities within the metropolitan planning organization~~
618 ~~may be required to reimburse the Department of Transportation for the additional project costs~~
619 ~~above the original estimates for making such alterations.~~

620 ~~(10) Contracts with other states. To enter into all contracts with other states necessary for~~
621 ~~the proper coordination of the location, construction, maintenance, improvement, and operation~~
622 ~~of transportation systems, including the systems of state highways with the highways of such~~
623 ~~other states and, where necessary, to seek the approval of such contracts by the Congress of the~~
624 ~~United States.~~

625 ~~(11) Use of funds. To administer, distribute, and allocate funds in the Transportation~~
626 ~~Trust Fund as provided by law. The Commonwealth Transportation Board shall ensure that the~~
627 ~~total funds allocated to any highway construction project are equal to total expenditures within~~
628 ~~12 months following completion of the project. However, this requirement shall not apply to~~
629 ~~debt service apportionments pursuant to § 33.1-23.3 or 33.1-23.4.~~

630 ~~(12) Financial and investment advisors. With the advice of the Secretary of Finance and~~
631 ~~the State Treasurer, to engage a financial advisor and investment advisor who may be anyone~~
632 ~~within or without the government of the Commonwealth, to assist in planning and making~~
633 ~~decisions concerning the investment of funds and the use of bonds for transportation purposes.~~
634 ~~The work of these advisors shall be coordinated with the Secretary of Finance and the State~~
635 ~~Treasurer.~~

636 ~~(13) The powers of the Virginia Aviation Board set out in Chapter 1 (§ 5.1-1 et seq.) of~~
637 ~~Title 5.1 and the Virginia Port Authority set out in Chapter 10 (§ 62.1-128 et seq.) of Title 62.1~~
638 ~~are in no way diminished by the provisions of this title.~~

639 ~~(14) To enter into payment agreements with the Treasury Board related to payments on~~
640 ~~bonds issued by the Commonwealth Transportation Board.~~

641 ~~(15) Establishment of highway user fees for the systems of state highways. When the~~
642 ~~traffic-carrying capacity of any system of state highways or a portion thereof is increased by~~
643 ~~construction or improvement, the Commonwealth Transportation Board may enter into~~
644 ~~agreements with localities, authorities, and transportation districts to establish highway user fees~~
645 ~~for such system of state highways or portion thereof that the localities, authorities, and~~
646 ~~transportation districts maintain.~~

647 ~~(16) Subject to compliance with applicable federal regulations, the Commonwealth~~
648 ~~Transportation Board shall establish a plan for identification and acquisition of rights-of-way~~
649 ~~that may be needed within the corridors designated on the Statewide Transportation Plan.~~

650 ~~The term "public transportation" or "mass transit" as used in this title means passenger~~
651 ~~transportation by rubber-tired, rail, or other surface conveyance which provides shared-ride~~
652 ~~services open to the general public on a regular and continuing basis. The term does not include~~
653 ~~school buses; charter or sight-seeing service; vehicular ferry service that serves as a link in the~~
654 ~~highway network; or human service agency or other client-restricted transportation.~~

655 **Drafting note: Existing § 33.1-12 is split into multiple sections, each dealing with**
656 **one major power or duty of the Board. It is stricken in whole here and its parts are**
657 **reordered and amended in this new Article 3 as old language to indicate changes.**

658 ~~(1) § 33.2-XXX. Location of routes.~~

659 ~~To A. The Board shall locate and establish the routes to be followed by the ~~roads~~~~
660 ~~highways comprising systems of state highways between the points designated in the~~
661 ~~establishment of such systems, except that such routes shall not include ~~roads~~ highways located~~
662 ~~within any local system of ~~roads~~ highways, within the urban highway system ~~of highways~~, or~~
663 ~~those local ~~roads~~ highways in any county that has resumed full responsibility for all of the~~
664 ~~secondary state highway system ~~of highways~~ within such county's boundaries pursuant to §~~
665 ~~33.1-84.1 33.2-XXX. Such routes to be located and established shall include corridors of~~
666 ~~statewide significance pursuant to § ~~33.1-23.03~~ 33.2-XXX.~~

667 ~~§ 33.1-18. Location of routes.~~

668 B. The ~~Commonwealth Transportation~~ Board shall not locate and establish any route
669 ~~under subdivision (1) of § 33.1-12 pursuant to this section~~ until: the Department ~~of~~
670 ~~Transportation~~ has (i) published in a newspaper published or having a general circulation in the
671 ~~county, city, or town~~ locality in which the route is to be located and established a notice of its
672 willingness to hold a public hearing on the matter, (ii) notified the governing body of the
673 ~~county, city, or town~~ locality in which the route is to be located of its willingness to hold a
674 public hearing on the matter, and (iii) held a public hearing, if one has been requested.

675 If a public hearing is requested, written notice of the time and place of the hearing shall
676 be given; not less than ~~thirty~~ 30 days prior to the hearing; to the governing body of the ~~county,~~
677 ~~city, or town~~ locality in which the route is to be located and established. Not less than ~~thirty~~ 30
678 days prior to the hearing, a notice of the time and place of the hearing shall also be published by
679 the Department ~~of Transportation~~ at least once in a newspaper published or having a general
680 circulation in the ~~county, city, or town~~ locality in which the route is to be located and
681 established.

682 All public hearings on the location or possible location of a route shall be open forums
683 that afford citizens opportunities to obtain route location information and other pertinent
684 information on a proposed project; and to submit their hearing comments in writing or to present
685 them directly to a verbatim recorder. In addition, upon the written request of a member of the
686 governing body of the ~~county, city, or town~~ locality in which the route is proposed to be located,
687 or upon the written request of ~~twenty-five~~ 25 citizens, these public hearings shall afford citizens
688 an opportunity to present their comments to representatives of the Department ~~of Transportation~~
689 directly, one speaker at a time, in a public forum following a traditional hearing format. A
690 written request for a traditional hearing must be received within ~~fourteen~~ 14 days following the
691 first published notice of the hearing or willingness to hold a hearing.

692 Following the public hearing, if one is held as provided in this section, the Department
693 ~~of Transportation~~ shall notify the ~~local~~ governing body of the affected ~~county, city, or town~~

694 locality of the ~~Commonwealth Transportation~~ Board's decision regarding the location and
695 establishment of the route.

696 **Drafting note: Existing § 33.1-12 is split into several sections, each dealing with one**
697 **major power or duty of the Board. In this instance, existing § 33.1-18 is combined with**
698 **subdivision (1) of § 33.1-12 so that all powers, etc., relating to location of routes are in a**
699 **single location. References are changed from "road" to "highway" and from "county, city,**
700 **or town" to "locality" to maintain consistency throughout this title and the Code.**
701 **Technical changes are made.**

702 ~~(2)~~ § 33.2-128. Construction and maintenance contracts and activities related to
703 passenger and freight rail and public transportation.

704 ~~(a) To~~ A. The Board shall let all contracts to be administered by the ~~Virginia~~ Department
705 of Transportation or the Department of Rail and Public Transportation for the construction,
706 maintenance, and improvement of the ~~roads~~ highways comprising systems of state highways
707 and for all activities related to passenger and freight rail and public transportation in excess of
708 \$5 million. The Commissioner of Highways shall have the authority to let all ~~Virginia~~
709 Department of Transportation-administered contracts for highway construction, maintenance,
710 and improvements up to \$5 million in value. The Director of the Department of Rail and Public
711 Transportation shall have the authority to let contracts for passenger and freight rail and public
712 transportation improvements up to \$5 million in value. The Commissioner of Highways is
713 authorized to enter into agreements with localities, authorities, and transportation districts to
714 administer projects and to allow those localities, authorities, and transportation districts to let
715 contracts with no limit on contract value, and without prior concurrence of the Commissioner of
716 Highways or the Board for highway construction, maintenance, and improvements within their
717 jurisdictions, in accordance with those provisions of ~~the this~~ Code of Virginia providing those
718 localities, authorities, and transportation districts the ability to let such contracts. The Director
719 of the Department of Rail and Public Transportation is authorized to enter into agreements with
720 localities, authorities, and transportation districts to administer projects and to allow those

721 | localities, authorities, and transportation districts to let contracts with no limit on contract value;
722 | and without prior concurrence of the Director of the Department of Rail and Public
723 | Transportation or the Board for passenger and freight rail and public transportation activities
724 | within their jurisdictions, in accordance with those provisions of ~~the~~ this Code ~~of Virginia~~
725 | providing those localities, authorities, and transportation districts the ability to let such
726 | contracts. The Commissioner of Highways and the Director of the Department of Rail and
727 | Public Transportation shall report on their respective transportation contracting activities at least
728 | quarterly to the Board.

729 | ~~(b)~~ B. The ~~Commonwealth Transportation~~ Board may award contracts for the
730 | construction of transportation projects on a design-build basis. These contracts may be awarded
731 | after a written determination is made by the Commissioner of Highways or the Director of the
732 | Department of Rail and Public Transportation, pursuant to objective criteria previously adopted
733 | by the Board regarding the use of design-build, that delivery of the projects must be expedited
734 | and that it is not in the public interest to comply with the design and construction contracting
735 | procedures normally followed. Such objective criteria ~~will~~ shall include requirements for
736 | prequalification of contractors and competitive bidding processes. These contracts shall be of
737 | such size and scope to encourage maximum competition and participation by agency
738 | prequalified and otherwise qualified contractors. Such determination shall be retained for public
739 | inspection in the official records of the Department of Transportation or the Department of Rail
740 | and Public Transportation, as the case may be, and shall include a description of the nature and
741 | scope of the project and the reasons for the Commissioner's or the Director's determination that
742 | awarding a design-build contract will best serve the public interest. The provisions of this
743 | section shall supersede contrary provisions of subsection D of § 2.2-4303 and § 2.2-4306.

744 | ~~(c)~~ C. For transportation construction projects valued in excess of \$100 million, the
745 | ~~Commonwealth Transportation~~ Board shall require that a financial plan be prepared. This plan
746 | shall include, ~~but not be limited to, the following:~~ (i) a complete cost estimate for all major
747 | project elements; (ii) an implementation plan with the project schedule and cost-to-complete

748 information presented for each year; (iii) ~~identified~~ an identification of revenues by funding
749 source available each year to meet project costs; (iv) a detailed cash-flow analysis for each year
750 of the proposed project; and (v) an identification of efforts to be made to ensure maximum
751 involvement of private enterprise and private capital.

752 ~~(d)-D.~~ ~~The Commonwealth Transportation~~ Board may award contracts for the provision
753 of equipment, materials, and supplies to be used in construction of transportation projects on a
754 fixed-price basis. Any such contract may provide that the price to be paid for the provision of
755 equipment, materials, and supplies to be furnished in connection with the projects shall not be
756 increased but shall remain fixed until completion of the projects specified in the contracts.
757 Material components of any such contract for annual and ~~multi-year~~ multiyear programs,
758 including ~~but not limited to~~ maintenance, may be fixed at the outset of the projects and until
759 completion based on best achievable prices.

760 **Drafting note: This proposed section is derived from subdivision (2) of § 33.1-12,**
761 **including subdivisions (a) through (d). In subsections C and D and in other proposed**
762 **sections, "but not limited to" or similar language is removed when using the term**
763 **"including" based on § 1-218, which states: "'Includes' means includes, but not limited**
764 **to." A reference is changed from "road" to "highway" to maintain consistency throughout**
765 **this title. Technical changes are made.**

766 ~~(3)-§ 33.2-129.~~ Traffic regulations.

767 ~~To~~ A. The Board shall make ~~rules and~~ regulations, from time to time, that are not in
768 conflict with the laws of the Commonwealth, for the protection of and covering traffic on, and
769 the use of systems of state highways and ~~to~~ shall have the authority to add to, amend, or repeal
770 ~~the same~~ such regulations.

771 ~~§ 33.1-19. Effect of Board's rules and regulations.~~

772 ~~The rules and regulations~~ B. Regulations, together with any additions or amendments
773 thereto, prescribed by the Board under the provisions authority of ~~subdivision (3) of § 33.1-12,~~
774 this section shall have the force and effect of law, and any person, firm, or corporation violating

775 any such ~~rule or~~ regulation or any addition or amendment thereto ~~shall be~~ is guilty of a
776 misdemeanor ~~and, upon conviction, be fined~~ punishable by a fine of not less than \$5 nor more
777 than \$100 for each offense. Such person shall be civilly liable to the Commonwealth for the
778 actual damage sustained by the Commonwealth by reason of his wrongful act. Such damages
779 may be recovered at the suit of the ~~Commonwealth Transportation~~ Board and, when collected,
780 paid into the state treasury to the credit of the Department ~~of Transportation~~. Any ~~rules and~~
781 regulations promulgated by the Board shall be developed in accordance with the Administrative
782 Process Act (§ 2.2-4000 et seq.) except when specifically exempted by law.

783 **Drafting note: Existing subdivision (3) of § 33.1-12 and existing § 33.1-19 are**
784 **combined since both have to do with traffic regulations created by the Board. Per**
785 **recommendation of the Code Commission, use of "regulations" is preferred over "rules**
786 **and regulations" in the Code, and so the phrase is changed accordingly. Other changes are**
787 **technical.**

788 § ~~33.1-22~~ 33.2-XXX. Copies of ~~rules~~ regulations as evidence.

789 Copies of ~~such rules and~~ regulations of the Board and of additions or amendments
790 thereto, printed under the authority of the ~~Commonwealth Transportation~~ Board, shall be
791 admissible in all of the courts of ~~this the~~ Commonwealth without further proof and given the
792 force and effect prescribed hereby, and the fact that such printed copies bear the name of the
793 ~~Commonwealth Transportation~~ Board shall be prima facie evidence that they are duly adopted
794 and promulgated under the provisions ~~hereof of this title~~ and that they are true copies of the
795 ~~rules and~~ regulations, or of any additions and amendments thereto, adopted pursuant to the
796 provisions of ~~subdivision (3) of § 33.1-12~~ § 33.2-XXX.

797 **Drafting note: Technical changes. Per recommendation of the Code Commission,**
798 **use of "regulations" is preferred over "rules and regulations" in the Code and so the**
799 **phrase is changed accordingly.**

800 § ~~33.1-23~~ 33.2-XXX. Sections not applicable to certain engines and tractors.

801 The provisions of ~~subdivision (3) of § 33.1-12 and of §§ 33.1-19 and 33.1-22 §§ 33.2-~~
802 ~~XXX and 33.2-XXX~~ shall not apply to traction engines and tractors, weighing not less than five
803 tons, when drawing threshing machines, hay balers, or other farm machinery for local farm use.

804 **Drafting note: Technical changes.**

805 ~~(4) § 33.2-130.~~ Naming highways, bridges, interchanges, and other transportation
806 facilities.

807 ~~To~~ A. The Board shall give suitable names to state highways, bridges, interchanges, and
808 other transportation facilities; and change the names of any highways, bridges, interchanges, or
809 other transportation facilities forming a part of the systems of state highways. The ~~name~~ names
810 of private entities, as defined in § ~~56-557~~ 33.2-XXX, located within the Commonwealth shall
811 not be used for such purposes unless such private entity pays ~~to~~ the Department ~~of~~
812 Transportation an annual naming rights fee as determined by the Board. The Department ~~of~~
813 Transportation shall place and maintain appropriate signs indicating the names of highways,
814 bridges, interchanges, and other transportation facilities named by the Board or by the General
815 Assembly. The costs of producing, placing, and maintaining these signs shall be paid by the
816 ~~counties, cities, and towns~~ localities in which they are located or by the private entity whose
817 name is attached to the highway, bridge, interchange, or other transportation facility. No name
818 shall be given to any state highway, bridge, interchange, or other transportation facility by the
819 ~~Commonwealth Transportation~~ Board unless and until the ~~Commonwealth Transportation~~ Board
820 ~~shall have received~~ receives from the ~~local~~ governing body of the locality within which a
821 portion of the facility to be named is located a resolution of that governing body requesting such
822 naming, except in such cases where a private entity has requested ~~such~~ the naming. No highway,
823 bridge, interchange, or other transportation facility previously named by the Board or the
824 General Assembly shall be eligible for renaming by a private entity, unless such naming
825 incorporates the previous name. The Board shall develop and approve guidelines governing the
826 naming of highways, bridges, interchanges, and other transportation facilities by private entities

827 and the applicable fees for such naming rights. Such fees shall be deposited in the Highway
828 Maintenance and Operating Fund.

829 No name shall be eligible for the naming rights under this ~~subdivision section~~ if it in any
830 way reasonably connotes anything that (i) is profane, obscene, or vulgar; (ii) is sexually explicit
831 or graphic; (iii) is excretory related; (iv) is descriptive of intimate body parts or genitals; (v) is
832 descriptive of illegal activities or substances; (vi) condones or encourages violence; or (vii) is
833 socially, racially, or ethnically offensive or disparaging.

834 ~~§ 33.1-182. Route names.~~

835 B. All laws now in effect, or as hereafter amended, designating certain names for certain
836 routes or combinations of routes in the ~~State Highway System and/~~ primary or ~~the~~ secondary
837 state highway system ~~of state highways, as hereafter amended~~, are continued in effect.

838 **Drafting note: This proposed section is derived from subdivision (4) of existing**
839 **§ 33.1-12, which is split into several sections, each dealing with one major power or duty of**
840 **the Board. This power of the Board deals with naming of highways and similar**
841 **transportation facilities by the Board and relocates existing § 33.1-182, which continues in**
842 **effect all existing highway names, as subsection B. Technical changes are made.**

843 ~~§ 33.1-371.2 33.2-109.~~ Tree-trimming policies.

844 ~~In order to preserve roadside trees that do not adversely affect highway operations,~~
845 ~~maintenance, or safety, the Commonwealth Transportation The~~ Board shall adopt policies
846 governing the pruning and trimming of trees during nonemergency conditions by the employees,
847 agents, and contractors of the ~~Virginia~~ Department of Transportation in order to preserve
848 roadside trees that do not adversely affect highway operations, maintenance, or safety. Such
849 policies shall be developed in consultation with an advisory group whose members shall
850 include, ~~but not be limited to~~, representatives of the ~~Virginia~~ Department of Transportation, the
851 ~~Virginia~~ Department of Forestry, Scenic Virginia, and the American Society of Consulting
852 Arborists; and shall be consistent with generally accepted standards recommended by nationally

853 recognized organizations, including, ~~but not limited to,~~ the American National Standards
854 Institute.

855 **Drafting note: Technical changes.**

856 ~~(6) Information and § 33.2-131. Transportation~~ statistics and information.

857 ~~To~~ The Board shall gather ~~and,~~ tabulate, and disseminate statistics and other information
858 ~~and statistics~~ relating to transportation ~~and disseminate the same throughout the~~
859 Commonwealth. In addition, the Commissioner of Highways shall provide a report to the
860 Governor, the General Assembly, the ~~Commonwealth Transportation~~ Board, and the public
861 concerning the current status of all highway construction projects in the Commonwealth. This
862 report shall be posted at least four times each fiscal year, but may be updated more often ~~as~~
863 circumstances allow. The report shall contain, at a minimum, the following information for
864 every project in the Six-Year Improvement Program: (i) project description; (ii) total cost
865 estimate; (iii) funds expended to date; (iv) project timeline and completion date; (v) statement of
866 whether the project is ahead of, on, or behind schedule; (vi) the name of the prime contractor;
867 (vii) total expenditures of federal transportation funds in each county and city; (viii) total
868 expenditures of state transportation funds in each county and city; (ix) statewide totals for
869 federal, state, and local funds expended for highways; (x) statewide totals for federal, state, and
870 local funds expended for transit; (xi) total funds expended on intercity passenger and freight rail
871 line and trains; and (xii) total funds expended in each federal and state programmatic category.
872 Use of one or more ~~Internet~~ websites may be used to satisfy this requirement. ~~Project-specific~~
873 Project-specific information posted on the Internet shall be updated daily as information is
874 available.

875 **Drafting note: This proposed section is derived from subdivision (6) of existing §**
876 **33.1-12. Technical changes are made.**

877 ~~(9) § 33.2-132. Transportation; Six-Year Improvement Program.~~

878 ~~(a) To~~ A. The Board shall monitor and, where necessary, approve actions taken by the
879 Department of Rail and Public Transportation pursuant to Chapter ~~10.1 XXX~~ (§ ~~33.1-391.1~~

880 [33.2-XXX](#) et seq.) in order to ensure the efficient and economical development of public
881 transportation, the enhancement of rail transportation, and the coordination of such rail and
882 public transportation plans with highway programs.

883 ~~(b) To~~ B. The Board shall coordinate the planning for financing of transportation needs,
884 including needs for highways, railways, seaports, airports, and public transportation and ~~to~~ set
885 aside funds as provided in § ~~33.1-23.03:1~~ 33.2-XXX. To allocate funds for these needs pursuant
886 to §§ ~~33.1-23.1~~ 33.2-XXX and 58.1-638, the Board shall adopt a Six-Year Improvement
887 Program of anticipated projects and programs by July 1 of each year. This program shall be
888 based on the most recent official Transportation Trust Fund revenue forecast and shall be
889 consistent with a debt management policy adopted by the Board in consultation with the Debt
890 Capacity Advisory Committee and the Department of the Treasury.

891 ~~(c) To~~ C. The Board shall recommend to the General Assembly ~~for their consideration at~~
892 ~~the next session of the General Assembly,~~ objective criteria to be used by the Board in selecting
893 those transportation projects to be advanced from the feasibility to the construction stage. If
894 such criteria are enacted into law, such objectives shall apply to the interstate, primary, and
895 urban highway systems ~~of highways~~.

896 ~~(d) To~~ D. The Board shall enter into contracts with local districts, commissions,
897 agencies, or other entities created for transportation purposes.

898 ~~(e) To~~ E. The Board shall promote increasing private investment in ~~Virginia's the~~
899 Commonwealth's transportation infrastructure, including ~~but not limited to~~ acquisition of
900 causeways, bridges, tunnels, highways, and other transportation facilities.

901 ~~(f) To~~ F. The Board shall integrate land use with transportation planning and
902 programming, consistent with the efficient and economical use of public funds. If the Board
903 determines that a local transportation plan described in § 15.2-2223 or any amendment as
904 described in § 15.2-2229 or a metropolitan regional long-range transportation plan or regional
905 Transportation Improvement Program as described in § ~~33.1-223.2:25~~ 33.2-XXX is not
906 consistent with the ~~Commonwealth Transportation~~ Board's Statewide Transportation Plan

907 developed pursuant to § ~~33.1-23.03~~ 33.2-XXX, the Six-Year Improvement Program adopted
908 pursuant to ~~subdivision (9)(b)~~ subsection B, and the location of routes to be followed by roads
909 comprising systems of state highways pursuant to ~~subdivision (1)~~ § 33.2-XXX, the Board shall
910 notify the locality of such inconsistency and request that the applicable plan or program be
911 amended accordingly. If, after a reasonable time, the Board determines that there is a refusal to
912 amend the plan or program, then the Board may reallocate funds that were allocated to the
913 nonconforming project as permitted by state or federal law. If a locality or metropolitan
914 planning organization requests the termination of a project or does not advance a project to the
915 next phase of construction when requested by the Board and the Department ~~of Transportation~~
916 has expended state or federal funds, the locality or the localities within the metropolitan
917 planning organization may be required to reimburse the Department ~~of Transportation~~ for all
918 funds expended on the project. If a locality or metropolitan planning organization requests
919 alterations to a project that, in the aggregate, exceeds 10 percent of the total project costs, the
920 locality or the localities within the metropolitan planning organization may be required to
921 reimburse the Department ~~of Transportation~~ for the additional project costs above the original
922 estimates for making such alterations.

923 **Drafting note: This proposed section is derived from subdivision (9) of existing §**
924 **33.1-12, including subdivisions (a) through (f). Existing subdivision (9) (c), shown as**
925 **proposed subsection C, does not include the secondary system; it is unclear if this was**
926 **intentional. Subdivision (9) (c) was added in Chapter 349 of the 2001 Acts of Assembly and**
927 **references criteria to be recommended to the General Assembly in the "next session." This**
928 **provision is a candidate for repeal. Technical changes are made.**

929 (7) § 33.2-133. Policies and operation of Departments.

930 ~~To~~ The Board shall review and approve policies and transportation objectives of the
931 Department of Transportation and the Department of Rail and Public Transportation, ~~to~~ assist in
932 establishing such policies and objectives, ~~to~~ oversee the execution thereof, and ~~to~~ report ~~thereon~~

933 [on these policies and objectives](#) to the Commissioner of Highways and the Director of the
934 Department of Rail and Public Transportation, respectively.

935 **Drafting note: This proposed section is derived from subdivision (7) of existing**
936 **§ 33.1-12. Technical changes are made.**

937 ~~(8)~~ [§ 33.2-134](#). Cooperation [of the Board](#) with other agencies and local governments.

938 ~~(a) To~~ [A. The Board shall](#) cooperate with the federal government, the American
939 Association of State Highway and Transportation Officials, and any other organization in the
940 numbering, signing, and marking of highways, in the taking of measures for the promotion of
941 highway safety, in research activities, in the preparation of standard specifications, in the testing
942 of highway materials, and otherwise with respect to transportation projects.

943 ~~(b) To~~ [B. The Board shall](#) offer technical assistance and coordinate state resources to
944 work with local governments, upon their request, in developing sound transportation
945 components for their local comprehensive plans.

946 **Drafting note: This proposed section is derived from subdivision (8) of existing**
947 **§ 33.1-12. Technical changes are made.**

948 ~~§ 33.1-195~~ [33.2-135](#). Sale of materials to, and use of equipment by, ~~cities, towns,~~
949 ~~counties~~ [localities](#) and school boards.

950 The Board may lend or rent equipment and sell materials and supplies used in the
951 building or repairing of ~~roads~~ [highways](#) and streets to any ~~city, town, county,~~ [locality](#) or school
952 board, upon such terms and conditions as may be agreed upon by the Board and such ~~city, town,~~
953 ~~county,~~ [locality](#) or school board. ~~Provided, provided that~~ the governing body of ~~such city, town,~~
954 ~~county,~~ [locality](#) or school board submits to the Board a certificate setting forth that the material
955 or equipment cannot be furnished from private sources within a reasonable time. ~~Provided,~~
956 ~~further, that the foregoing provide~~ [This section](#) shall not apply to towns with a population of less
957 than 3,500 inhabitants or to the purchase of paint for traffic marking purposes by any ~~city, town,~~
958 ~~county,~~ [locality](#) or school board.

959 **Drafting note: References are changed from "road" to "highway" and references**
960 **to "city, town, county" are changed to "locality" to maintain consistency throughout this**
961 **title. Technical changes are made.**

962 § ~~33.1-206.1~~ 33.2-136. Roadside memorials; installation, maintenance, and removal
963 standards; installation of nonconforming memorial prohibited; penalty.

964 A. The ~~Commonwealth Transportation~~ Board shall establish regulations regarding size,
965 distance from the roadway, and other safety concerns; to govern the installation, maintenance,
966 and removal of roadside memorials, plaques, and other devices placed within the right-of-way
967 that commemorate the memory of persons killed in vehicle crashes within the right-of-way of
968 any state highway.

969 B. Any person who installs any plaque, device, sign, object, material, or other memorial
970 within the right-of-way of any highway controlled by the Department except in accordance with
971 criteria established as provided in this section may be assessed a civil penalty of no more than
972 \$100. Each occurrence shall be subject to a separate penalty. All civil penalties collected under
973 this section shall be paid into the Highway Maintenance and Operating Fund.

974 **Drafting note: Technical changes.**

975 § ~~33.1-207~~ 33.2-137. Facilities for persons desiring to fish from bridges.

976 The ~~Commonwealth Transportation~~ Board may, ~~in its discretion~~, upon the request in
977 writing of any department or agency of the Commonwealth, construct and maintain, on or in
978 connection with any bridges ~~which that~~ now constitute a part of any system of state highways,
979 ~~such~~ platforms, walkways, or other facilities as may be necessary or proper for the safety and
980 convenience of persons who desire to fish therefrom, ~~the~~. The cost ~~thereof to shall~~ be paid out of
981 funds furnished by the department or agency making the request from its own funds or funds
982 furnished to such department or agency by gift from private sources. The Department ~~of~~
983 ~~Transportation~~ shall not be held responsible for damage caused by the construction or use of
984 such facilities.

985 **Drafting note: Technical changes.**

986 | § ~~33.1-208~~ 33.2-138. Use of streams and lowlands obstructed by newly constructed
987 | highways as fishponds or water storage areas.

988 | Whenever any highway is being constructed and the highway is to pass over any stream
989 | or lowland the obstruction of which is necessary to such construction or if the present highway
990 | construction can be utilized to provide a suitable dam for a fishpond or water storage area, then
991 | upon application of the adjacent property owner requesting that it be so used, the
992 | ~~Commonwealth Transportation~~ Board may permit such use, provided that such dam ~~should~~ shall
993 | be subject to the provisions of Article ~~14 XXX~~ (§ ~~33.1-176~~ 33.2-XXX et seq.) ~~of this chapter,~~
994 | and any additional cost incurred ~~thereby~~ shall be borne by ~~such~~ the requesting property owner.

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

996 | § ~~33.1-209~~ 33.2-139. Prohibition of certain weeds and plants on highway rights-of-way.

997 | Neither the ~~Commonwealth Transportation~~ Board nor the Commissioner of Highways
998 | shall plant or cause or suffer to be planted on the right-of-way of any state highway any of the
999 | weeds or plants known as devil shoestring (~~tephrosia~~ Tephrosia virginiana), Johnson grass
1000 | (~~sorghum~~ Sorghum halepense), or barberry (~~berberis~~ Berberis vulgaris); if the ~~board of~~
1001 | ~~supervisors or other~~ governing body of the county in which the highway is located shall by
1002 | resolution declare such weeds or plants to be injurious to adjacent property.

1003 | The Board shall cause all such weeds or plants ~~heretofore~~ planted or caused to be planted
1004 | by the Board or Commissioner of Highways on any state highway right-of-way to be dug up and
1005 | destroyed.

1006 | Any owner of land adjacent to any state or other public highway right-of-way, or his
1007 | agents and employees, may dig up, cut down, or otherwise remove and destroy any of such
1008 | plants or weeds and any other plants or weeds ~~which~~ that are or may become noxious or
1009 | otherwise injurious to his property found growing upon any state or other public highway right-
1010 | of-way adjacent to his land.

1011 | **Drafting note: Technical changes.**

1012 | § ~~33.1-12.01~~ 33.2-140. Fees for participating in the Integrated Directional Sign Program.

1013 ~~In addition to the duties set forth in § 33.1-12 of the Code of Virginia, the~~
1014 ~~Commonwealth Transportation~~ The Board shall establish reasonable fees to be collected by the
1015 Commissioner of Highways from any qualified entity for the purpose of participating in the
1016 Integrated Directional Sign Program (IDSP) administered by the Department ~~of Transportation~~
1017 or its agents that is designed to provide information to the motoring public relating to gasoline
1018 and motor vehicle services, food, lodging, attractions, or other categories as defined by the
1019 IDSP. Such fees shall be deposited into a special fund specifically accounted for and used by the
1020 Commissioner of Highways solely to defray the actual costs of supervising and administering
1021 the signage programs. Included in these costs shall be a reasonable margin, not to exceed ~~ten~~ 10
1022 percent, in the nature of a reserve ~~Fund fund~~.

1023 **Drafting note: Technical changes.**

1024 § ~~33.1-223.1~~ 33.1-141. Statements to be filed with Board by transit systems.

1025 Any transit system as defined in § ~~15.2-4502~~ 33.2-XXX that conducts its
1026 operations within the exclusive jurisdiction of any ~~county, city or town~~ locality or within the
1027 boundaries of any district as defined in § ~~15.2-4502~~ 33.2-XXX, and any ~~jurisdiction contiguous~~
1028 thereto adjoining locality, shall file annually with the ~~Commonwealth Transportation~~ Board
1029 such financial and other statistical data as the ~~Commonwealth Transportation~~ Board shall
1030 require in order to effectively administer the provisions of § 46.2-206; and shall file with the
1031 Department of Rail and Public Transportation, at such times as the Department of Rail and
1032 Public Transportation shall require, such information as the Department of Rail and Public
1033 Transportation shall require to carry out its duties under ~~subdivision 4 of § 33.1-391.5~~ 33.2-
1034 XXX.

1035 The provisions of this section shall not be construed so as to exempt any such transit
1036 system from any provision of law or regulation made pursuant to law ~~which that~~ requires the
1037 filing of data with any other agency of the Commonwealth.

1038 **Drafting note: Technical changes.**

1039 | § ~~33.1-223.2:17~~ 33.2-142. ~~Commonwealth Transportation~~ Board may transfer interest in
1040 | and control over certain highways, highway rights-of-way, and landings.

1041 | Notwithstanding any contrary provision of this title, the ~~Commonwealth Transportation~~
1042 | Board, upon receipt of a written request from a public access authority established pursuant to
1043 | Title 15.2 and without first abandoning or discontinuing such highway, highway right-of-way,
1044 | or landing, ~~(including a wharf, pier, or dock)~~, may transfer to such requesting authority any and
1045 | all rights and interests of the Board in ~~such a~~ highway, highway right-of-way, ~~and or~~ landing as
1046 | the Board may deem in the public interest. Such transfer may be either with or without
1047 | compensation from the requesting authority.

1048 | **Drafting note: Technical changes.**

1049 | ~~(5) Compliance with federal acts. § 33.2-143. Other powers, duties, and responsibilities~~
1050 | of Board.

1051 | ~~To A. The Board shall~~ comply fully with the provisions of the present or future federal
1052 | aid acts. The Board may enter into all contracts or agreements with the United States
1053 | government and may do all other things necessary to carry out fully the cooperation
1054 | contemplated and provided for by present or future acts of Congress ~~in the area of~~ related to
1055 | transportation.

1056 | ~~(10) Contracts with other states. To B. The Board shall~~ enter into all contracts with other
1057 | states necessary for the proper coordination of the location, construction, maintenance,
1058 | improvement, and operation of transportation systems, including the systems of state highways
1059 | with the highways of such other states, and; where necessary, ~~to~~ seek the approval of such
1060 | contracts by the Congress of the United States.

1061 | ~~(11) Use of funds. To C. The Board shall~~ administer, distribute, and allocate funds in the
1062 | Transportation Trust Fund as provided by law. The ~~Commonwealth Transportation~~ Board shall
1063 | ensure that the total funds allocated to any highway construction project are equal to total
1064 | expenditures within 12 months following completion of the project. However, this requirement

1065 shall not apply to debt service apportionments pursuant to § ~~33.1-23.3~~ 33.2-XXX or ~~33.1-23.4~~
1066 33.2-XXX.

1067 ~~(12) Financial and investment advisors. With D. The Board shall, with~~ the advice of the
1068 Secretary of Finance and the State Treasurer, ~~to~~ engage a financial advisor and investment
1069 advisor who may be anyone within or without the government of the Commonwealth, to assist
1070 in planning and making decisions concerning the investment of funds and the use of bonds for
1071 transportation purposes. The work of these advisors shall be coordinated with the Secretary of
1072 Finance and the State Treasurer.

1073 ~~(13) E.~~ The powers of the Virginia Aviation Board set out in Chapter 1 (§ 5.1-1 et seq.)
1074 of Title 5.1 and the Virginia Port Authority set out in Chapter 10 (§ 62.1-128 et seq.) of Title
1075 62.1 are in no way diminished by the provisions of this title.

1076 ~~(14) To F. The Board shall~~ enter into payment agreements with the Treasury Board
1077 related to payments on bonds issued by the Commonwealth Transportation Board.

1078 ~~(15) Establishment of highway user fees for the systems of state highways. G.~~ When the
1079 traffic-carrying capacity of any system of state highways or a portion thereof is increased by
1080 construction or improvement, the ~~Commonwealth Transportation~~ Board may enter into
1081 agreements with localities, authorities, and transportation districts to establish highway user fees
1082 for such system of state highways or portion thereof that the localities, authorities, and
1083 transportation districts maintain.

1084 ~~(16) H.~~ Subject to compliance with applicable federal regulations, the ~~Commonwealth~~
1085 ~~Transportation~~ Board shall establish a plan for identification and acquisition of rights-of-way
1086 that may be needed within the corridors designated on the Statewide Transportation Plan
1087 established pursuant to § 33.2-XXX.

1088 ~~§ 33.1-183.1. Authority to lease or convey airspace; terms of lease or conveyance;~~
1089 ~~advertisement and bids; disposition of compensation for lease or conveyance.~~

1090 I. The Board may lease or sell and convey the airspace superjacent or subjacent to any
1091 highway in ~~this the~~ the Commonwealth ~~which that~~ is within its jurisdiction and in which the

1092 Commonwealth owns fee simple title after satisfying itself that use of the airspace will not
1093 impair the full use and safety of the highway or otherwise interfere with the free flow of traffic
1094 thereon and it cannot be reasonably foreseen as needed in the future for highway and other
1095 transit uses and purposes. It may provide in such leases and conveyances of airspace for
1096 columns of support, in fee or otherwise, ingress, egress, and utilities.

1097 No lease or conveyance shall be entered into by the Board until after the time the ~~county,~~
1098 ~~city or town,~~ locality by action of its governing body by majority recorded vote, approves the
1099 projected use and has zoned the airspace in question or has otherwise taken such steps as it
1100 deems proper to regulate the type and use of the improvements to be erected in such airspace.

1101 All leases and conveyances shall contain those terms deemed necessary by the Board to
1102 protect the interests of the Commonwealth and the public and shall not be entered into until after
1103 public advertising for bids for such airspace. The Board shall advertise for bids at least ~~fourteen~~
1104 14 days prior to the execution of a lease or a conveyance. The advertisement shall state the place
1105 where bidders may examine a map of the airspace, the general terms of the lease or conveyance,
1106 and the time and place when bids will be opened by the Board. The highest bid from a
1107 responsible bidder, in the sole discretion of the Board, shall be accepted; however, the Board
1108 may reject all bids and advertise the property again.

1109 Compensation paid for such leases and conveyances shall be credited to the ~~fund for~~
1110 ~~highway maintenance and construction~~ Transportation Trust Fund.

1111 ~~§ 33.1-196. Oiling of highways.~~

1112 J. The ~~Commonwealth Transportation~~ Board may oil the highways in any town in ~~this~~
1113 the Commonwealth upon request of the ~~council thereof~~ governing body of the town and may oil
1114 the highways in any county of ~~this the~~ Commonwealth, the secondary ~~roads~~ highways within
1115 which are not a part of the secondary state highway system ~~of state highways~~, upon request of
1116 the board of supervisors or other governing body ~~thereof,~~ provided that such ~~council or such~~
1117 ~~board of supervisors or other~~ local governing body, as the case may be, shall pay to the
1118 Commonwealth Transportation Board the cost of such oiling. This ~~section~~ subsection ~~does apply~~

1119 [applies](#) to any highway ~~which that~~ is a part of the ~~State Highway System primary~~ or ~~the~~
1120 secondary ~~system of~~ state ~~highways~~ [highway system](#).

1121 **Drafting note: This section combines subdivisions (5) and (10) through (16) of**
1122 **existing § 33.1-12 with existing §§ 33.1-183.1 and 33.1-196. The provisions of existing**
1123 **§ 33.1-183.1 deal with the power of the Commonwealth Transportation Board to lease and**
1124 **convey airspace while existing § 33.1-196 delineates the duty of the Board to oil highways.**
1125 **A reference to a fund for highway maintenance and construction in subsection I is**
1126 **changed to the Transportation Trust Fund, as it is the only Fund that deals with both**
1127 **highway maintenance and construction. A reference is changed from "road" to**
1128 **"highway" to maintain consistency throughout this title. Technical changes are made.**

1129 [Article 4.](#)

1130 [Metropolitan Planning Organizations.](#)

1131 **Drafting note: Sections dealing with metropolitan planning organizations are**
1132 **relocated from existing Article 15 (Miscellaneous Provisions) of Chapter 1 to a new Article**
1133 **4 in proposed Chapter 1.**

1134 ~~§ 33.1-223.2:23~~ [33.2-144](#). Metropolitan planning organizations; membership.

1135 Any metropolitan planning organization may vote, upon the prior written authorization
1136 of the Governor, to have its membership expanded to include members of the House of
1137 Delegates, as selected by the Speaker of the House of Delegates, and members of the Senate, as
1138 selected by the Senate Committee on Rules.

1139 **Drafting note: Technical changes.**

1140 ~~§ 33.1-223.2:25~~ [33.2-145](#). Transportation planning duties and responsibilities of
1141 Metropolitan Planning Organizations.

1142 The Metropolitan Planning Organizations (MPOs) of ~~Virginia~~ [the Commonwealth](#) shall
1143 be responsible for the development of regional long-range transportation plans for the regions
1144 they represent in accordance with federal regulation. Each such long-range plan shall include a
1145 fiscally constrained list of all multimodal transportation projects, including those managed at the

1146 | statewide level either by the ~~Virginia~~ Department of Transportation or the ~~Virginia~~ Department
1147 | of Rail and Public Transportation. The purpose of the plan is to comply with federal regulations
1148 | and provide the MPOs and the region a source of candidate projects for the MPOs' use in
1149 | developing regional Transportation Improvement Programs (TIPs) and serving as an input to
1150 | assist the Commonwealth with the development of the statewide Long-Range Plan (~~VTTrans~~).

1151 | The MPOs shall develop amendments for their regional TIPs in accordance with federal
1152 | regulations.

1153 | The MPOs shall be required to coordinate planning and programming actions with those
1154 | of the Commonwealth and duly established public transit agencies in accordance with federal
1155 | regulations.

1156 | The MPOs shall examine the structure and cost of transit operations within the regions
1157 | they represent and incorporate the results of these inquiries in their plans and shall endorse long-
1158 | range plans for assuring maximum utilization and integration of mass transportation facilities
1159 | throughout the Commonwealth.

1160 | The MPOs shall conduct a public involvement process focused on projects and topics
1161 | that will best enable them to develop and approve Long Range Transportation Plans (~~LRTPs~~)
1162 | that shall be submitted for approval by their board and forwarded to the Commonwealth
1163 | Transportation Board and updated as required by federal regulations.

1164 | **Drafting note: Technical changes.**

1165 | § ~~33.1-23.03:01~~ 33.2-146. Distribution of certain federal funds.

1166 | Metropolitan Planning Organizations (MPOs) as defined under 23 U.S.C. § 134 and
1167 | Section 8 of the Federal Transit Act shall be authorized to issue contracts for studies and to
1168 | develop and approve transportation plans and improvement programs to the full extent
1169 | permitted by federal law.

1170 | The ~~Commonwealth Transportation~~ Board (~~CTB~~), ~~Virginia~~ Department of
1171 | Transportation, and Department of Rail and Public Transportation are directed to develop and
1172 | implement a decision-making process that provides MPOs and regional transportation planning

1173 bodies a meaningful opportunity for input into transportation decisions that impact the
1174 transportation system within their boundaries. Such a process shall provide the MPOs and
1175 regional transportation planning bodies with the [CTB Board's](#) priorities for development of the
1176 Six-Year Improvement Program and an opportunity for them to identify their regional priorities
1177 for consideration.

1178 **Drafting note: Technical changes.**

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