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**SENATE BILL NO. 1464**

Offered January 20, 2009

A *BILL to amend and reenact §§ 2.2-200, 2.2-204, 2.2-211, 2.2-306, 2.2-2423, 5.1-1, 5.1-2.1, 5.1-7, 5.1-9.9, 5.1-30.9, 5.1-39, 10.1-1425.8, 15.2-968.1, 15.2-2030, 15.2-2222.1, 15.2-2272, 15.2-3530, 15.2-3534, 15.2-4832, 15.2-5114, 15.2-5146, 22.1-129, 25.1-108, 25.1-109, 25.1-209, 25.1-229, 33.1-1, 33.1-2, 33.1-3, 33.1-221.1:1.1, 33.1-221.1:8, 33.1-351, 33.1-391.2, 33.1-391.3:1, 33.1-391.5, 46.2-200, 46.2-206, 46.2-223, 46.2-224, 46.2-302, 46.2-373, 46.2-675, 46.2-819.1, 46.2-873.1, 46.2-877, 46.2-878, 46.2-881, 46.2-883, 46.2-930, 46.2-932, 46.2-1104, 46.2-1109, 46.2-1110, 46.2-1112, 46.2-1144.1, 46.2-1145, 46.2-1223, 46.2-1307, 46.2-1307.1, 53.1-58, 55-201.1, 56-27, 56-28, 56-29, 56-32, 56-366.1, 56-366.3, 56-369, 56-405, 56-405.1, 56-405.2, 56-406.1, 56-406.2, 56-458.1, 56-573.1, and 63.2-611 of the Code of Virginia, to amend the Code of Virginia by adding in Article 15 of Chapter 1 of Title 33.1 a section numbered 33.1-223.2:21, and to repeal Article 10 (§§ 2.2-228 and 2.2-229) of Chapter 2 of Title 2.2 of the Code of Virginia and § 5.1-2.3 of the Code of Virginia, relating to the offices of Secretary of Transportation, Chief Executive Officer for Transportation, Commonwealth Transportation Commissioner, Director of the Department of Aviation, and Director of the Department of Rail and Public Transportation.*

Patron—McDougle

Referred to Committee on Transportation

**Be it enacted by the General Assembly of Virginia:**

**1. That §§ 2.2-200, 2.2-204, 2.2-211, 2.2-306, 2.2-2423, 5.1-1, 5.1-2.1, 5.1-7, 5.1-9.9, 5.1-30.9, 5.1-39, 10.1-1425.8, 15.2-968.1, 15.2-2030, 15.2-2222.1, 15.2-2272, 15.2-3530, 15.2-4832, 15.2-5114, 15.2-5146, 22.1-129, 25.1-108, 25.1-109, 25.1-209, 25.1-229, 33.1-1, 33.1-2, 33.1-3, 33.1-221.1:1.1, 33.1-221.1:8, 33.1-351, 33.1-391.2, 33.1-391.3:1, 33.1-391.5, 46.2-200, 46.2-206, 46.2-223, 46.2-224, 46.2-302, 46.2-373, 46.2-675, 46.2-819.1, 46.2-873.1, 46.2-877, 46.2-878, 46.2-881, 46.2-883, 46.2-930, 46.2-932, 46.2-1104, 46.2-1109, 46.2-1110, 46.2-1112, 46.2-1144.1, 46.2-1145, 46.2-1223, 46.2-1307, 46.2-1307.1, 53.1-58, 55-201.1, 56-27, 56-28, 56-29, 56-32, 56-366.1, 56-366.3, 56-369, 56-405, 56-405.1, 56-405.2, 56-406.1, 56-406.2, 56-458.1, 56-573.1, and 63.2-611 of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding in Article 15 of Chapter 1 of Title 33.1 a section numbered 33.1-223.2:21 as follows:**

§ 2.2-200. Appointment of Governor's Secretaries; general powers; severance.

A. The Governor's Secretaries shall be appointed by the Governor, subject to confirmation by the General Assembly if in session when the appointment is made, and if not in session, then at its next succeeding session. Each Secretary shall hold office at the pleasure of the Governor for a term coincident with that of the Governor making the appointment or until a successor is appointed and qualified. Before entering upon the discharge of duties, each Secretary shall take an oath to faithfully execute the duties of the office.

B. Each Secretary shall be subject to direction and supervision by the Governor. Except as provided in Article 5 (§ 2.2-208 et seq.) of this chapter, the agencies assigned to each Secretary shall:

1. Exercise their respective powers and duties in accordance with the general policy established by the Governor or by the Secretary acting on behalf of the Governor;

2. Provide such assistance to the Governor or the Secretary as may be required; and

3. Forward all reports to the Governor through the Secretary.

C. Unless the Governor expressly reserves such power to himself and except as provided in Article 5 (§ 2.2-208 et seq.) of this chapter, each Secretary may:

1. Resolve administrative, jurisdictional, operational, program, or policy conflicts between agencies or officials assigned;

2. Direct the formulation of a comprehensive program budget for the functional area identified in § 2.2-1508 encompassing the services of agencies assigned for consideration by the Governor;

3. Hold agency heads accountable for their administrative, fiscal and program actions in the conduct of the respective powers and duties of the agencies;

4. Direct the development of goals, objectives, policies and plans that are necessary to the effective and efficient operation of government;

5. Sign documents on behalf of the Governor that originate with agencies assigned to the Secretary; and

6. Employ such personnel and to contract for such consulting services as may be required to perform the powers and duties conferred upon the Secretary by law or executive order.

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59 D. Severance benefits provided to any departing Secretary shall be publicly announced by the  
60 Governor prior to such departure.

61 E. As used in this chapter, "Governor's Secretaries" means the Secretary of Administration, the  
62 Secretary of Agriculture and Forestry, the Secretary of Commerce and Trade, the Secretary of Education,  
63 the Secretary of Finance, the Secretary of Health and Human Resources, the Secretary of Natural  
64 Resources, the Secretary of Public Safety, *and* the Secretary of Technology; ~~and the Secretary of~~  
65 ~~Transportation.~~

66 § 2.2-204. Position established; agencies for which responsible; additional duties.

67 The position of Secretary of Commerce and Trade (the Secretary) is created. The Secretary shall be  
68 responsible to the Governor for the following agencies: Department of Business Assistance, Virginia  
69 Economic Development Partnership Authority, *Virginia Motor Vehicle Dealer Board*, *Virginia Port*  
70 *Authority*, Virginia Tourism Authority, Department of Labor and Industry, Department of Mines,  
71 Minerals and Energy, Virginia Employment Commission, Department of Professional and Occupational  
72 Regulation, Department of Housing and Community Development, Department of Minority Business  
73 Enterprise, Virginia Housing Development Authority, Virginia Resources Authority, Virginia Racing  
74 Commission, Tobacco Indemnification and Community Revitalization Commission, and Board of  
75 Accountancy. The Governor, by executive order, may assign any state executive agency to the Secretary,  
76 or reassign any agency listed in this section to another Secretary.

77 The Secretary shall implement the provisions of the Virginia Biotechnology Research Act (§ 2.2-5500  
78 et seq.).

79 § 2.2-211. Position established; agencies for which responsible; additional powers.

80 A. The position of Secretary of Finance (the "Secretary") is created. The Secretary shall be  
81 responsible for the following agencies: Department of Accounts, Department of Planning and Budget,  
82 Department of Taxation, *Department of Motor Vehicles*, Department of the Treasury and Department of  
83 the State Internal Auditor. The Governor, by executive order, may assign any other state executive  
84 agency to the Secretary of Finance, or reassign any agency listed.

85 B. To the greatest extent practicable, the agencies assigned to the Secretary shall pay all amounts due  
86 and owing by the Commonwealth through electronic transfers of funds from the general fund or  
87 appropriate special fund to the bank account of the payee or a party identified by law to receive funds  
88 on behalf of the payee. All wire transfer costs associated with the electronic transfer shall be paid by the  
89 payee subject to exemptions authorized by the State Treasurer affecting the investment, debt, and  
90 intergovernmental transactions of the Commonwealth and its agencies, institutions, boards, and  
91 authorities.

92 § 2.2-306. Secure Commonwealth Panel; membership; duties; compensation; staff.

93 A. The Secure Commonwealth Panel (the Panel), is established as an advisory board, within the  
94 meaning of § 2.2-2100, in the executive branch of state government. The Panel shall consist of 34  
95 members as follows: three members of the House of Delegates and two nonlegislative citizens to be  
96 appointed by the Speaker of the House of Delegates; three members of the Senate of Virginia and two  
97 nonlegislative citizens to be appointed by the Senate Committee on Rules; the Lieutenant Governor; the  
98 Attorney General; the Executive Secretary of the Supreme Court of Virginia; the Assistant to the  
99 Governor for Commonwealth Preparedness, the Secretary of Commerce and Trade, the Secretary of  
100 Health and Human Resources, the Secretary of Public Safety, the Secretary of Technology and the  
101 ~~Secretary of Transportation~~ *Chief Executive Officer for Transportation* or their designees; two local first  
102 responders; three local government representatives; two physicians with knowledge of public health; four  
103 members from the business or industry sector; and four additional members from the private sector.  
104 Except for appointments made by the Speaker of the House of Delegates and the Senate Committee on  
105 Rules, all other appointments shall be made by the Governor. Additional ex officio members may be  
106 appointed to the Panel by the Governor at his discretion. Legislative members shall serve terms  
107 coincident with their terms of office or until their successors shall qualify. Nonlegislative citizen  
108 members shall serve for terms of four years. The Assistant to the Governor of the Office shall be the  
109 chairman of the Panel.

110 B. The Panel shall monitor and assess the implementation of statewide prevention, preparedness,  
111 response, and recovery initiatives and where necessary to review, evaluate, and make recommendations  
112 relating to the emergency preparedness of government at all levels in the Commonwealth. Additionally,  
113 the Panel shall facilitate cabinet-level coordination among the various agencies of state government  
114 related to emergency preparedness and shall facilitate private sector preparedness and communication.  
115 The Panel shall make quarterly reports to the Governor concerning the state's emergency preparedness,  
116 response, recovery, and prevention efforts.

117 C. Members of the Panel shall serve without compensation but shall be reimbursed for all reasonable  
118 and necessary expenses incurred in the discharge of their duties as provided in § 2.2-2825.

119 D. Staff support for the Panel and funding for the costs of expenses of the members shall be  
120 provided by the Office of Commonwealth Preparedness.

121 § 2.2-2423. Virginia Geographic Information Network Advisory Board; membership; terms; quorum;  
122 compensation and expenses.

123 A. The Virginia Geographic Information Network Advisory Board (the Board) is hereby established  
124 as an advisory board, within the meaning of § 2.2-2100, in the executive branch of state government.  
125 The Board shall advise the Geographic Information Network Division (the Division) of the Virginia  
126 Information Technologies Agency on issues related to the exercise of the Division's powers and duties.

127 B. The Board shall consist of 18 members appointed as follows: nine nonlegislative citizen members  
128 to be appointed by the Governor that consist of one agency director from one of the natural resources  
129 agencies, one official from a state university, one elected official representing a local government in the  
130 Commonwealth, one member of the Virginia Association of Surveyors, one elected official who serves  
131 on a planning district commission, two representatives of utilities or transportation industries utilizing  
132 geographic data, and two representatives of private businesses with expertise and experience in the  
133 establishment, operation, and maintenance of geographic information systems; four members of the  
134 House of Delegates to be appointed by the Speaker of the House of Delegates; two members of the  
135 Senate to be appointed by the Senate Committee on Rules; the Chief Information Officer, the  
136 Commonwealth Chief Executive Officer for Transportation Commissioner, and the Executive Director of  
137 the Economic Development Partnership Authority or their designees who shall serve as ex officio,  
138 voting members. Gubernatorial appointees may be nonresidents of the Commonwealth. All members of  
139 the Board appointed by the Governor shall be confirmed by each house of the General Assembly. The  
140 agency director and state university official appointed by the Governor may each designate a member of  
141 his organization as an alternate who may attend meetings in his place and be counted as a member of  
142 the Board for the purposes of a quorum.

143 Any members of the Board who are representatives of private businesses that provide geographic  
144 information services, and their companies, are precluded from contracting to provide goods or services  
145 to the Division.

146 C. Legislative members' terms shall be coincident with their terms of office. The gubernatorial  
147 appointees to the Board shall serve five-year terms, except for the initial appointees whose terms were  
148 staggered. Members appointed by the Governor shall serve no more than two consecutive five-year  
149 terms. Vacancies occurring other than by expiration of a term shall be filled for the unexpired term.  
150 Vacancies shall be filled in the same manner as the original appointments. The remainder of any term to  
151 which a member is appointed to fill a vacancy shall not constitute a term in determining the member's  
152 eligibility to serve.

153 D. The Board shall elect from its membership a chairman, vice-chairman, and any other officers  
154 deemed necessary. The duties and terms of the officers shall be prescribed by the members. A majority  
155 of the Board shall constitute a quorum. The Board shall meet at least quarterly or at the call of its  
156 chairman or the Chief Information Officer.

157 E. Legislative members of the Board shall receive such compensation as provided in § 30-19.12 and  
158 nonlegislative citizen members shall receive such compensation as provided in § 2.2-2813 for their  
159 services. All members shall be reimbursed for all reasonable and necessary expenses incurred in the  
160 performance of their duties as provided in §§ 2.2-2813 and 2.2-2825. Funding for the costs of  
161 compensation and expenses of the members shall be provided by the Virginia Geographic Information  
162 Network Division of the Virginia Information Technologies Agency.

163 F. The Geographic Information Network Division shall provide staff support to the Board.

164 § 5.1-1. Definitions.

165 When used in this title, unless expressly stated otherwise:

166 "Board" means the Virginia Aviation Commonwealth Transportation Board.

167 "Person" means any individual, corporation, government, political subdivision of the Commonwealth,  
168 or governmental subdivision or agency, business trust, estate, trust, partnership, two or more of any of  
169 the foregoing having a joint or common interest, or any other legal or commercial entity.

170 "Aircraft" means any contrivance now known, or hereafter invented, used or designed for navigation  
171 of or flight in the air, including a balloon or other contrivance designed for maneuvering in airspace at  
172 an altitude greater than twenty-four inches above ground or water level except that any contrivance now  
173 or hereafter invented of fixed or flexible wing design, operating without the assistance of any motor,  
174 engine, or other mechanical propulsive device, which is designed to utilize the feet and legs of the  
175 operator or operators as the sole means of initiating and sustaining forward motion during the launch  
176 and of providing the point of contact with the ground upon landing, and commonly called a "hang  
177 glider" shall not be included within this definition.

178 "Public aircraft" means an aircraft used exclusively in the service of any state, or political  
179 subdivision thereof, or the federal government.

180 "Civil aircraft" means any aircraft other than a public aircraft.

181 "Airman" means any individual, including the person in command, and any pilot, mechanic, or

182 member of the crew, who engages in the navigation of aircraft while under way within Virginia  
183 airspace, and any individual who is directly in charge of the inspection, maintenance, overhauling or  
184 repair of aircraft, aircraft engines, propellers or accessories; and any individual who serves in the  
185 capacity of aircraft dispatcher.

186 "Airport" means any area of land or water which is used, or intended for public use, for the landing  
187 and takeoff of aircraft, and any appurtenant areas which are used, or intended for use, for airport  
188 buildings or other airport facilities or rights-of-way, easements and together with all airport buildings  
189 and facilities located thereon.

190 "Landing area" or "landing field" means any locality, whether over land or water, including airports  
191 and intermediate landing fields, which is used or intended to be used for the landing and takeoff of  
192 aircraft, and open to the public for such use, whether or not facilities are provided for the sheltering,  
193 servicing or repair of aircraft, or for receiving or discharging passengers or cargo.

194 "Airspace" means all that space above the land and waters within the boundary of this  
195 Commonwealth.

196 "Drop zone" means any locality whether over land or water which is used, or intended for use, for  
197 the landing and recovery of sky divers, or parachutists using a parachute or other contrivance designed  
198 for sport jumping.

199 "Department" means the Department of Aviation.

200 "Commercial aircraft" means any civil aircraft used in flight activity for compensation or for hire.

201 "Contract carrier by aircraft" or "contract carrier" means any person, not included under § 5.1-89 (c)  
202 or (d), who, under special and individual contracts or agreements, and whether directly or by a lease or  
203 any other arrangement, transports passengers or property by aircraft for compensation and in the  
204 transportation of passengers does not charge individual fares.

205 "Air navigation facility" means any airport ground or air navigation facility, other than one owned  
206 and operated by the United States, used in, available for use in, or designed for use in aid of air  
207 navigation, including any structures, buildings, mechanisms, lights, beacons, markers, communicating  
208 systems, or other instrumentalities, or devices, and any combination of any or all of such facilities, used  
209 or useful as an aid, or constituting any advantage or convenience, to the safe taking off, navigation, and  
210 landing of aircraft, in the safe and efficient operation or maintenance of an airport, in the safe, efficient  
211 and convenient handling or processing of aviation passengers, mail or cargo, or in the servicing or  
212 maintenance of aircraft or ground equipment.

213 "Airport hazard" shall mean any structure, object or natural growth, or use of land which obstructs  
214 the airspace required for the flight of aircraft in landing or taking off at an airport or is otherwise  
215 hazardous to such landing or taking off of aircraft.

216 § 5.1-2.1. Virginia Aviation Board functions transferred to Commonwealth Transportation Board.

217 A. *The powers, functions and responsibilities heretofore vested in the Virginia Aviation Commission*  
218 *Board, a public body corporate and politic, is are hereby continued within the Department of Aviation*  
219 *as a political subdivision of the Commonwealth and shall hereafter be known as transferred to the*  
220 *Virginia Aviation Commonwealth Transportation Board, established by § 33.1-1, and any references in*  
221 *this title to the "Virginia Aviation Board" or the "Board" shall be taken to refer to the Commonwealth*  
222 *Transportation Board. The Board shall consist of eight members, selected so far as practicable from*  
223 *different geographic areas of the Commonwealth, appointed by the Governor, subject to confirmation by*  
224 *the General Assembly, to serve at the pleasure of the Governor. Members shall serve for four-year terms*  
225 *and no member shall serve for more than two full successive terms. Initial appointments to the Board*  
226 *shall be made as follows: one shall be for a term of one year, two shall be for terms of two years, two*  
227 *shall be for terms of three years, and two shall be for terms of four years each and thereafter all*  
228 *appointments shall be for terms of four years each. The Chairman of the Board shall be appointed by*  
229 *the Governor.*

230 B. Whenever the Board shall acquire ownership or jurisdiction over an airport or airports previously  
231 operated by an agency of the United States, there may be a member appointed to the Board by the  
232 President of the United States. Such member shall have the powers and duties of other members of the  
233 Board only with respect to the airport or airports so acquired.

234 C. There may be a member of the Board from any county or city wherein the Board acquires or  
235 constructs an airport, to be elected by the governing body of the county or city and to serve at its  
236 pleasure. Such member shall have the powers and duties of other members of the Board only with  
237 respect to such airport. If the Board acquires an airport which was constructed by one political  
238 subdivision but is located in another, the political subdivision which constructed the airport, rather than  
239 the political subdivision in which it is located, shall be represented on the Board.

240 § 5.1-7. Licensing of airports and landing areas.

241 Except as provided in § 5.1-7.2, every person, before operating an airport or landing area or adding  
242 or extending a runway, shall first secure from the Department a license. The application therefor shall be  
243 made on the form prescribed and furnished by the Department and shall be accompanied by a fee not

244 exceeding \$100.

245 Such license shall be issued for a period not to exceed seven years, and shall be renewed every  
246 seven years. Before issuing such license, the Department shall require the holder of such license to  
247 furnish proof of financial responsibility prescribed in Chapter 8.2 (§ 5.1-88.7 et seq.) of this title.

248 It shall be unlawful for any person to operate any airport or landing area which is open to the  
249 general public for the landing or departure of any aircraft until a license therefor shall be issued by the  
250 Department.

251 Before issuing such license for the establishment of a new airport, the Department shall investigate  
252 the location of such airport or landing area with the relation to its proximity to and its runway  
253 orientation in relation to any other airport or landing area and shall provide for the safety of civil  
254 aircraft alighting thereon or departing therefrom. If the proposed airport or landing area shall be so  
255 situated as to endanger aircraft using the same or any other airport or landing area in close proximity,  
256 and if proper provisions have not been made in all other respects for the safety of aircraft alighting  
257 thereon or departing therefrom, the license shall not be granted. To be licensed, an airport required to be  
258 licensed under § 5.1-7.2 must meet this criterion and any applicable requirement provided for in  
259 regulation promulgated under this section, but no others.

260 The Board may, by regulation, adopt any other requirements for licensure that are related to the  
261 safety of civil aircraft using such airport or landing area. Any airport having a license issued prior to  
262 October 1, 1995, and not meeting one or more minimum standards as defined in Part III of the Virginia  
263 Aviation Regulations (VR 165-01-02:1), shall be exempt from having to comply with those  
264 noncomplying standards for as long as the airport remains an active public-use facility. Should such  
265 airport cease to be open to the public for one year, and subsequently reopen, it shall be required to  
266 comply with all applicable minimum standards for licensure.

267 In addition to the above safety requirements, before a license is initially issued, the Department shall  
268 consider the reviews and comments of appropriate state agencies coordinated by the Department of  
269 Environmental Quality, and shall cause a public hearing to be held concerning the economic, social and  
270 environmental effects of the location or runway orientation of the airport or landing area if the facility is  
271 listed in the Virginia Air Transportation System Plan; however, such coordinated review by the  
272 Department of Environmental Quality shall not exceed ninety days after the Department has requested  
273 review by the Department of Environmental Quality. The public hearing required by this section shall be  
274 conducted by the Department of Environmental Quality in the jurisdiction in which the airport or  
275 landing area is located, after publication of notice of the hearing in a newspaper of general circulation in  
276 such jurisdiction at least ten days in advance of such hearing.

277 Any license issued shall describe the number of runways, the length and orientation of each runway  
278 and/or, if appropriate, the landing area.

279 If a runway is to be extended or new runways are to be added, a revised license shall be applied for  
280 from the Department. If the airport or landing area is listed in the Virginia Air Transportation System  
281 Plan, the Department shall consider the reviews and comments of appropriate state agencies, coordinated  
282 by the Department of Environmental Quality, and shall cause a public hearing to be held concerning the  
283 economic, social and environmental effects of such changes to the license.

284 Whenever a public hearing is called for herein, if there has been a public hearing associated with the  
285 development of any environmental documents to comply with the receipt of federal funds, the  
286 Department and the Department of Environmental Quality may rely on such document or hearing in  
287 carrying out their respective duties set out in this section.

288 If an airport or landing area cannot meet the requirements for licensure that have been adopted by  
289 the Virginia Aviation Board, or having met those requirements cannot maintain compliance, the  
290 Department may issue conditional licenses to allow time for the airport or landing areas to take steps to  
291 meet those requirements or may revoke any license issued, if requirements for licensure are not met or  
292 cannot be met.

293 Any party aggrieved by the granting or refusal to grant any such license shall have a right of appeal  
294 to the circuit court of the jurisdiction where the airport or landing area is to be located, which appeal  
295 shall be filed in accordance with the Administrative Process Act, Chapter 40 (§ 2.2-4000 et seq.) of Title  
296 2.2.

297 All airports or landing areas that hold licenses or permits shall be issued new licenses, without  
298 charge, on or before October 1, 1995, describing the number, length and orientation of the runway or  
299 runways or, if appropriate, the landing area, which shall be valid for up to seven years. The length of  
300 the new license term may be staggered so that all licenses will not become renewable at the same time.  
301 If any airport landing area does not meet the current requirements for licensure, a new license may be  
302 issued.

303 § 5.1-9.9. Same; duration of permits; suspension or revocation; penalty.

304 A. Contract carrier permits issued pursuant to this chapter shall be effective from the date of issuance

305 and shall remain in effect only so long as the contract carrier's insurance, underwritten bond or  
306 certificate of insurance required by § 5.1-9.5 remains in full force and effect.

307 B. The Department may suspend or revoke such permit for violation of any of the aviation laws of  
308 this Commonwealth or of the United States of America, or for violation of any of the rules and  
309 regulations of the ~~Virginia Aviation~~ Board.

310 C. Willful misrepresentation of any material fact in obtaining a contract carrier permit shall be a  
311 Class 1 misdemeanor and punishable as such.

312 § 5.1-30.9. Report to the General Assembly and Chief Executive Officer for Transportation.

313 The Board, in conjunction with the Authority, shall report annually on or before December 1 to the  
314 General Assembly and the ~~Governor~~ *Chief Executive Officer for Transportation* on all loans made from  
315 the Fund.

316 § 5.1-39. Use, disposal and termination of rights acquired.

317 No easements, rights or privileges acquired under the terms of this article by any county, city or  
318 town shall be employed or disposed of except to accomplish the purposes for which they were originally  
319 acquired; except that when such easements, rights, or privileges have been transferred to the ~~Virginia~~  
320 ~~Aviation~~ Board, they may be held, used, and disposed of in accordance with §§ 5.1-2.2 and 5.1-2.2:1.  
321 Upon the abandonment of any airport or landing field acquired pursuant to this article all easements,  
322 rights and privileges which shall have been so acquired over or with respect to adjacent lands shall  
323 thereupon terminate and revert back to the person from whom the easement, right or privilege was  
324 obtained or his successor in interest.

325 § 10.1-1425.8. Department of Transportation; authority and duty.

326 The Department of Transportation is authorized to conduct recycling research projects, including the  
327 establishment of demonstration projects which use recycled products in highway construction and  
328 maintenance. Such projects may include by way of example and not by limitation the use of ground  
329 rubber from used tires or glass for road surfacing, resurfacing and sub-base materials, as well as the use  
330 of plastic or mixed plastic materials for ground or guard rail posts, right-of-way fence posts and sign  
331 supports.

332 The Department of Transportation shall periodically review and revise its bid procedures and  
333 specifications to encourage the use of products and materials with recycled content in its construction  
334 and maintenance programs.

335 The ~~Commonwealth~~ *Chief Executive Officer for Transportation* ~~Commissioner~~ may continue to  
336 provide for the collection of used motor oil and motor vehicle antifreeze from the general public at  
337 maintenance facilities in the County of Bath. The ~~Commonwealth~~ *Chief Executive Officer for*  
338 *Transportation* ~~Commissioner~~ may designate the source of funding for the collection and disposal of  
339 these materials.

340 § 15.2-968.1. Use of photo-monitoring systems to enforce traffic light signals.

341 A. The governing body of any county, city, or town may provide by ordinance for the establishment  
342 of a traffic signal enforcement program imposing monetary liability on the operator of a motor vehicle  
343 for failure to comply with traffic light signals in such locality in accordance with the provisions of this  
344 section. Each such locality may install and operate traffic light signal photo-monitoring systems at no  
345 more than one intersection for every 10,000 residents within each county, city, or town at any one time,  
346 provided, however, that within planning District 8, each such locality may install and operate traffic  
347 light signal photo-monitoring systems at no more than 10 intersections, or at no more than one  
348 intersection for every 10,000 residents within each county, city, or town, whichever is greater, at any  
349 one time.

350 B. The operator of a vehicle shall be liable for a monetary penalty imposed pursuant to this section  
351 if such vehicle is found, as evidenced by information obtained from a traffic light signal violation  
352 monitoring system, to have failed to comply with a traffic light signal within such locality.

353 C. Proof of a violation of this section shall be evidenced by information obtained from a traffic light  
354 signal violation monitoring system authorized pursuant to this section. A certificate, sworn to or affirmed  
355 by a law-enforcement officer employed by a locality authorized to impose penalties pursuant to this  
356 section, or a facsimile thereof, based upon inspection of photographs, microphotographs, videotape, or  
357 other recorded images produced by a traffic light signal violation monitoring system, shall be prima  
358 facie evidence of the facts contained therein. Any photographs, microphotographs, videotape, or other  
359 recorded images evidencing such a violation shall be available for inspection in any proceeding to  
360 adjudicate the liability for such violation pursuant to an ordinance adopted pursuant to this section.

361 D. In the prosecution for a violation of any local ordinance adopted as provided in this section,  
362 prima facie evidence that the vehicle described in the summons issued pursuant to this section was  
363 operated in violation of such ordinance, together with proof that the defendant was at the time of such  
364 violation the owner, lessee, or renter of the vehicle, shall constitute in evidence a rebuttable presumption  
365 that such owner, lessee, or renter of the vehicle was the person who committed the violation. Such  
366 presumption shall be rebutted if the owner, lessee, or renter of the vehicle (i) files an affidavit by

367 regular mail with the clerk of the general district court that he was not the operator of the vehicle at the  
 368 time of the alleged violation or (ii) testifies in open court under oath that he was not the operator of the  
 369 vehicle at the time of the alleged violation. Such presumption shall also be rebutted if a certified copy  
 370 of a police report, showing that the vehicle had been reported to the police as stolen prior to the time of  
 371 the alleged violation of this section, is presented, prior to the return date established on the summons  
 372 issued pursuant to this section, to the court adjudicating the alleged violation.

373 E. For purposes of this section, "owner" means the registered owner of such vehicle on record with  
 374 the Department of Motor Vehicles. For purposes of this section, "traffic light signal violation monitoring  
 375 system" means a vehicle sensor installed to work in conjunction with a traffic light that automatically  
 376 produces two or more photographs, two or more microphotographs, video, or other recorded images of  
 377 each vehicle at the time it is used or operated in violation of § 46.2-833, 46.2-835, or 46.2-836. For  
 378 each such vehicle, at least one recorded image shall be of the vehicle before it has illegally entered the  
 379 intersection, and at least one recorded image shall be of the same vehicle after it has illegally entered  
 380 that intersection.

381 F. Imposition of a penalty pursuant to this section shall not be deemed a conviction as an operator  
 382 and shall not be made part of the operating record of the person upon whom such liability is imposed,  
 383 nor shall it be used for insurance purposes in the provision of motor vehicle insurance coverage. No  
 384 monetary penalty imposed under this section shall exceed \$50, nor shall it include court costs.

385 G. A summons for a violation of this section may be executed pursuant to § 19.2-76.2.  
 386 Notwithstanding the provisions of § 19.2-76, a summons for a violation of this section may be executed  
 387 by mailing by first class mail a copy thereof to the owner, lessee, or renter of the vehicle. In the case of  
 388 a vehicle owner, the copy shall be mailed to the address contained in the records of the Department of  
 389 Motor Vehicles; in the case of a vehicle lessee or renter, the copy shall be mailed to the address  
 390 contained in the records of the lessor or renter. Every such mailing shall include, in addition to the  
 391 summons, a notice of (i) the summoned person's ability to rebut the presumption that he was the  
 392 operator of the vehicle at the time of the alleged violation through the filing of an affidavit as provided  
 393 in subsection D and (ii) instructions for filing such affidavit, including the address to which the affidavit  
 394 is to be sent. If the summoned person fails to appear on the date of return set out in the summons  
 395 mailed pursuant to this section, the summons shall be executed in the manner set out in § 19.2-76.3. No  
 396 proceedings for contempt or arrest of a person summoned by mailing shall be instituted for failure to  
 397 appear on the return date of the summons. Any summons executed for a violation of this section shall  
 398 provide to the person summoned at least 60 business days from the mailing of the summons to inspect  
 399 information collected by a traffic light signal violation monitoring system in connection with the  
 400 violation.

401 H. Information collected by a traffic light signal violation monitoring system installed and operated  
 402 pursuant to subsection A shall be limited exclusively to that information that is necessary for the  
 403 enforcement of traffic light violations. On behalf of a locality, a private entity may not obtain records  
 404 regarding the registered owners of vehicles that fail to comply with traffic light signals. Notwithstanding  
 405 any other provision of law, all photographs, microphotographs, electronic images, or other personal  
 406 information collected by a traffic light signal violation monitoring system shall be used exclusively for  
 407 enforcing traffic light violations and shall not (i) be open to the public; (ii) be sold or used for sales,  
 408 solicitation, or marketing purposes; (iii) be disclosed to any other entity except as may be necessary for  
 409 the enforcement of a traffic light violation or to a vehicle owner or operator as part of a challenge to the  
 410 violation; or (iv) be used in a court in a pending action or proceeding unless the action or proceeding  
 411 relates to a violation of § 46.2-833, 46.2-835, or 46.2-836 or requested upon order from a court of  
 412 competent jurisdiction. Information collected under this section pertaining to a specific violation shall be  
 413 purged and not retained later than 60 days after the collection of any civil penalties. If a locality does  
 414 not execute a summons for a violation of this section within 10 business days, all information collected  
 415 pertaining to that suspected violation shall be purged within two business days. Any locality operating a  
 416 traffic light signal violation monitoring system shall annually certify compliance with this section and  
 417 make all records pertaining to such system available for inspection and audit by the ~~Commonwealth~~  
 418 *Chief Executive Officer for Transportation Commissioner* or the Commissioner of the Department of  
 419 Motor Vehicles or his designee. Any person who discloses personal information in violation of the  
 420 provisions of this subsection shall be subject to a civil penalty of \$1,000.

421 I. A private entity may enter into an agreement with a locality to be compensated for providing the  
 422 traffic light signal violation monitoring system or equipment, and all related support services, to include  
 423 consulting, operations and administration. However, only a law-enforcement officer employed by a  
 424 locality may swear to or affirm the certificate required by subsection C. No locality shall enter into an  
 425 agreement for compensation based on the number of violations or monetary penalties imposed.

426 J. When selecting potential intersections for a traffic light signal violation monitoring system, a  
 427 locality shall consider factors such as (i) the accident rate for the intersection, (ii) the rate of red light

428 violations occurring at the intersection (number of violations per number of vehicles), (iii) the difficulty  
429 experienced by law-enforcement officers in patrol cars or on foot in apprehending violators, and (iv) the  
430 ability of law-enforcement officers to apprehend violators safely within a reasonable distance from the  
431 violation. Localities may consider the risk to pedestrians as a factor, if applicable. A locality shall  
432 submit a list of intersections to the Virginia Department of Transportation for final approval.

433 K. Before the implementation of a traffic light signal violation monitoring system at an intersection,  
434 the locality shall complete an engineering safety analysis that addresses signal timing and other  
435 location-specific safety features. The length of the yellow phase shall be established based on the  
436 recommended methodology of the Institute of Transportation Engineers. All traffic light signal violation  
437 monitoring systems shall provide a minimum 0.5-second grace period between the time the signal turns  
438 red and the time the first violation is recorded. If recommended by the engineering safety analysis, the  
439 locality shall make reasonable location-specific safety improvements, including signs and pavement  
440 markings.

441 L. Any locality that uses a traffic light signal violation monitoring system shall evaluate the system  
442 on a monthly basis to ensure all cameras and traffic signals are functioning properly. Evaluation results  
443 shall be made available to the public.

444 M. Any locality that uses a traffic light signal violation monitoring system to enforce traffic light  
445 signals shall place conspicuous signs within 500 feet of the intersection approach at which a traffic light  
446 signal violation monitoring system is used. There shall be a rebuttable presumption that such signs were  
447 in place at the time of the commission of the traffic light signal violation.

448 N. Prior to or coincident with the implementation or expansion of a traffic light signal violation  
449 monitoring system, a locality shall conduct a public awareness program, advising the public that the  
450 locality is implementing or expanding a traffic light signal violation monitoring system.

451 § 15.2-2030. Localities may sell or lease airspace over public streets, public rights-of-way, etc., under  
452 certain conditions.

453 Notwithstanding the provisions of § 15.2-2000 A, subject to the provisions of Article VII, Section 9  
454 of the Constitution of Virginia when applicable, any locality may by ordinance authorize the sale or  
455 lease of the airspace over or under any public street, lane, alley or other public right-of-way in such  
456 locality owned by it in fee simple; provided, that any building, structure or appurtenance thereto,  
457 constructed over any such street, lane, alley or other public right-of-way shall have a minimum clearance  
458 of sixteen feet six inches and providing further that nothing herein shall be construed to relieve any such  
459 grantee or lessee of such airspace of the liability for negligence on their part. No such ordinance shall  
460 be adopted until the governing body has held a public hearing thereon after public notice as provided in  
461 § 15.2-2204. In addition, in those public rights-of-way in which the Commonwealth has a prescriptive  
462 easement for maintenance and public travel, the airspace shall be conveyed or leased only with the  
463 consent, in writing, of the ~~Commonwealth~~ *Chief Executive Officer for Transportation Commissioner*.

464 Should the construction of any building or structure in any such airspace require the relocation of  
465 any utility, the cost of such relocation shall be borne by the grantee or lessee.

466 § 15.2-2222.1. Coordination of state and local transportation planning.

467 A. Prior to adoption of any comprehensive plan pursuant to § 15.2-2223, any part of a  
468 comprehensive plan pursuant to § 15.2-2228, or any amendment to any comprehensive plan as described  
469 in § 15.2-2229, the locality shall submit such plan or amendment to the Department of Transportation  
470 for review and comment if the plan or amendment will substantially affect transportation on state  
471 controlled highways as defined by regulations promulgated by the Department. The Department's  
472 comments on the proposed plan or amendment shall relate to plans and capacities for construction of  
473 transportation facilities affected by the proposal. Within 30 days of receipt of such proposed plan or  
474 amendment, the Department may request, and the locality shall agree to, a meeting between the  
475 Department and the local planning commission or other agent to discuss the plan or amendment, which  
476 discussions shall continue as long as the participants may deem them useful. The Department shall make  
477 written comments within 90 days after receipt of the plan or amendment, or by such later deadline as  
478 may be agreed to by the parties in the discussions.

479 B. Upon submission to, or initiation by, a locality of a proposed rezoning under § 15.2-2286,  
480 15.2-2297, 15.2-2298, or 15.2-2303, the locality shall submit the proposal to the Department of  
481 Transportation within 10 business days of receipt thereof if the proposal will substantially affect  
482 transportation on state-controlled highways. Such application shall include a traffic impact statement if  
483 required by local ordinance or pursuant to regulations promulgated by the Department. Within 45 days  
484 of its receipt of such traffic impact statement, the Department shall either (i) provide written comment  
485 on the proposed rezoning to the locality, or (ii) schedule a meeting, to be held within 60 days of its  
486 receipt of the proposal, with the local planning commission or other agent and the rezoning applicant to  
487 discuss potential modifications to the proposal to address any concerns or deficiencies. The Department's  
488 comments on the proposed rezoning shall be based upon the comprehensive plan, regulations and  
489 guidelines of the Department, engineering and design considerations, any adopted regional or statewide



490 plans and short and long term traffic impacts on and off site. The Department shall complete its initial  
491 review of the rezoning proposal within 45 days, and its final review within 120 days, after it receives  
492 the rezoning proposal from the locality.

493 C. When a locality receives a subdivision plat pursuant to § 15.2-2258 or 15.2-2260, or a site plan or  
494 plan of development pursuant to subdivision A 8 of § 15.2-2286, the locality shall submit such plat or  
495 plan to the Department of Transportation in accordance with § 15.2-2260 within 10 business days if the  
496 plat or plan substantially affects transportation on state-controlled highways as defined by regulations  
497 promulgated by the Department. Such plat or plan shall include supplemental traffic analysis if required  
498 by local ordinance or resolution or pursuant to regulations promulgated by the Department. Within 30  
499 days of its receipt of such plat or plan, the Department shall either (i) provide written comment on the  
500 plat or plan, or (ii) schedule a meeting, to be held within 60 days of the Department's receipt of the plat  
501 or plan, with members of the local planning commission or other agent of the locality to discuss  
502 potential modifications to the plat or plan to address any concerns or deficiencies. The Department's  
503 comments on the plat or plan shall be based upon the comprehensive plan, regulations or guidelines of  
504 the Department, engineering and design considerations, any adopted statewide or regional plans and  
505 short and long term traffic impacts on and off site. The Department shall complete its final review  
506 within 90 days after it receives such plat or plan from the locality. The submission of the application to  
507 the Department shall toll all times for local review set out in this chapter until the locality has received  
508 the Department's final comments.

509 D. If a locality has not received written comments within the timeframes specified in subsections B  
510 or C, the locality may assume that the Department has no comments.

511 E. The review requirements set forth in this section shall be supplemental to, and shall not affect,  
512 any requirement for review by the Department of Transportation or the locality under any other  
513 provision of law. Nothing in this section shall be deemed to prohibit any additional consultations  
514 concerning land development or transportation facilities that may occur between the Department and  
515 localities as a result of existing or future administrative practice or procedure, or by mutual agreement.

516 F. The Department shall impose fees and charges for the review of applications, plans and plats  
517 pursuant to paragraphs A, B, and C, and such fees and charges shall not exceed \$1,000 for each review.

518 G. Until July 1, 2008, the Department shall not be subject to the requirements of the Administrative  
519 Process Act (§ 2.2-4000 et seq.) in promulgating regulations pursuant to this section, and the  
520 ~~Commonwealth~~ *Chief Executive Officer for Transportation Commissioner* may phase the implementation  
521 of regulations promulgated pursuant to this section as he may deem appropriate.

522 § 15.2-2272. Vacation of plat after sale of lot.

523 In cases where any lot has been sold, the plat or part thereof may be vacated according to either of  
524 the following methods:

525 1. By instrument in writing agreeing to the vacation signed by all the owners of lots shown on the  
526 plat and also signed on behalf of the governing body of the locality in which the land shown on the plat  
527 or part thereof to be vacated lies for the purpose of showing the approval of the vacation by the  
528 governing body. In cases involving drainage easements or street rights-of-way where the vacation does  
529 not impede or alter drainage or access for any lot owners other than those lot owners immediately  
530 adjoining or contiguous to the vacated area, the governing body shall only be required to obtain the  
531 signatures of the lot owners immediately adjoining or contiguous to the vacated area. The word  
532 "owners" shall not include lien creditors except those whose debts are secured by a recorded deed of  
533 trust or mortgage and shall not include any consort of an owner. The instrument of vacation shall be  
534 acknowledged in the manner of a deed and filed for record in the clerk's office of any court in which  
535 the plat is recorded.

536 2. By ordinance of the governing body of the locality in which the land shown on the plat or part  
537 thereof to be vacated lies on motion of one of its members or on application of any interested person.  
538 The ordinance shall not be adopted until after notice has been given as required by § 15.2-2204. The  
539 notice shall clearly describe the plat or portion thereof to be vacated and state the time and place of the  
540 meeting of the governing body at which the adoption of the ordinance will be voted upon. Any person  
541 may appear at the meeting for the purpose of objecting to the adoption of the ordinance. An appeal  
542 from the adoption of the ordinance may be filed within thirty days with the circuit court having  
543 jurisdiction of the land shown on the plat or part thereof to be vacated. Upon appeal the court may  
544 nullify the ordinance if it finds that the owner of any lot shown on the plat will be irreparably damaged.  
545 If no appeal from the adoption of the ordinance is filed within the time above provided or if the  
546 ordinance is upheld on appeal, a certified copy of the ordinance of vacation may be recorded in the  
547 clerk's office of any court in which the plat is recorded.

548 Roads within the secondary system of highways may be vacated under either of the preceding  
549 methods and the action will constitute abandonment of the road, provided the land shown on the plat or  
550 part thereof to be vacated has been the subject of a rezoning or special exception application approved

551 following public hearings required by § 15.2-2204 and provided the ~~Commonwealth~~ *Chief Executive*  
 552 *Officer for Transportation Commissioner* or his agent is notified in writing prior to the public hearing,  
 553 and provided further that the vacation is necessary in order to implement a proffered condition accepted  
 554 by the governing body pursuant to §§ 15.2-2297, 15.2-2298 or 15.2-2303 or to implement a condition of  
 555 special exception approval. All abandonments of roads within the secondary system of highways sought  
 556 to be effected according to either of the preceding methods before July 1, 1994, are hereby validated,  
 557 notwithstanding any defects or deficiencies in the proceeding; however, property rights which have  
 558 vested subsequent to the attempted vacation are not impaired by such validation. The manner of  
 559 reversion shall not be affected by this section.

560 § 15.2-3530. Continuation of services of Department of Transportation after consolidation.

561 When a county and city consolidate into a city, or a combination of counties and a city or cities  
 562 consolidate into a city, or when any county and all of the incorporated towns located entirely therein are  
 563 consolidated into a city or cities, the ~~Commonwealth~~ *Chief Executive Officer for Transportation*  
 564 *Commissioner* shall continue the full services of the Department of Transportation in those areas which  
 565 were formerly a county or counties in the same manner and to the same extent such services were  
 566 rendered prior to such consolidation. Funds for the maintenance, construction and reconstruction of  
 567 streets within the areas formerly a county or counties shall continue to be allocated as if such areas were  
 568 still in the county or counties, and such city or cities shall not receive funds for maintenance,  
 569 construction or reconstruction of streets in those areas. In those areas where the Department of  
 570 Transportation provides the above services, the governing body of such city or cities, as the case may  
 571 be, shall have control over the streets and highways to the same extent as was formerly vested in the  
 572 governing body of the county or counties.

573 Notwithstanding the above, at any time subsequent to the consolidation, when in the opinion of the  
 574 ~~Commissioner~~ *Chief Executive Officer for Transportation*, the consolidated area ~~which~~ *that* was formerly a  
 575 county or counties or any portion thereof becomes substantially urbanized, the ~~Commissioner~~ *Chief*  
 576 *Executive Officer for Transportation* may by agreement with the governing body of the city, transfer the  
 577 streets in any area deemed urbanized to the city for construction, reconstruction and maintenance, and  
 578 thereafter funds for such streets shall be allocated as otherwise provided by law for city streets.

579 § 15.2-3534. Optional provisions of consolidation agreement.

580 Any such consolidation agreement may contain any of the following provisions:

581 1. In any territory that will be a part of the consolidated city there shall be no increase in  
 582 assessments, except for permanent improvements made after the consolidation, for a period not  
 583 exceeding five years.

584 2. The rate of tax on real property in any such territory shall be lower than in other territory of the  
 585 consolidated unit for a period of five years, provided that any difference between such rates of taxation  
 586 shall bear a reasonable relationship to differences in nonrevenue-producing governmental services giving  
 587 land urban character which are furnished in such territories.

588 3. In any area specified in such agreement, for the purpose of repaying existing indebtedness  
 589 chargeable to such area prior to consolidation, there may be levied a special tax on real property for a  
 590 period not exceeding twenty years, which may be different from and in addition to the general tax rate  
 591 throughout the entire consolidated county or counties, city or cities, or tier-city, as the case may be.

592 4. Geographical subdivisions of the consolidated city, to be known as boroughs, may be established,  
 593 which may be the same as the existing (i) cities, (ii) counties, or (iii) portions of such counties, which  
 594 are included in the consolidated city, and may be the same as the temporary special debt districts  
 595 referred to in subdivision 3 of this section; the names of such boroughs shall be set forth in the  
 596 consolidation agreement.

597 5. Geographical subdivisions of the consolidated county or counties, to be known as shires, may be  
 598 established, which shall be the same as and bear the names of the existing counties, towns, communities,  
 599 or portions of counties, which are included in the consolidated county or counties, and may be the same  
 600 as the temporary special debt districts referred to in subdivision 3 of this section.

601 6. In the event of consolidation of such counties and cities into a single county, there may be  
 602 established geographical subdivisions of such county, to be known as shires, which shall be the same as  
 603 and bear the names of the existing cities and counties.

604 7. In the event of consolidation of such counties and cities into a single county incorporating a  
 605 tier-city therein, there shall be established geographical and political subdivisions of such county, to be  
 606 known as "tier-cities"; such tier-cities shall apply for and may receive a charter from the General  
 607 Assembly in the same manner as may any municipality and when issued shall thereafter qualify in  
 608 general law, mutatis mutandis, as a town with respect to its rights, powers and obligations, and shall  
 609 have such other rights, powers and obligations as may be given it by law, general or special.

610 8. In the event of the establishment of such shires or boroughs, it shall be the duty of the  
 611 ~~Commonwealth~~ *Chief Executive Officer for Transportation Commissioner* and the Director of the  
 612 Department of Historic Resources to have suitable monuments or markers erected indicating the limits of

613 such geographical subdivisions and setting forth the history of each.

614 9. a. In the event of establishment of a consolidated city, there shall be a new election of officers  
615 thereof whose election and qualification shall terminate the terms of office of their predecessors;  
616 provision may be made for the exclusion from such new election of such elective officers as is deemed  
617 desirable.

618 b. In the event of the establishment of a consolidated city, the constitutional officers of the  
619 consolidating jurisdictions may continue in office at not less than their salaries in effect at the effective  
620 date of consolidation; the selection of each constitutional officer for the consolidated city shall be made  
621 by agreement between those persons holding such respective offices, and the other or others, as the case  
622 may be, shall become assistants or chief deputies, upon filing of a certification of such agreement in a  
623 circuit court and approval by the court; in the event no agreement is reached or no certification is filed  
624 on or before a date stated in the consolidation agreement, the circuit court shall designate one officer as  
625 principal and the other or others, as the case may be, as assistants or chief deputies; and in the event of  
626 a vacancy in the office of assistant or chief deputy thereby created during such term, the position shall  
627 be abolished. Each such officer shall continue in office, whether as the principal officer or as chief  
628 deputy or assistant, until January 1 following the next regularly scheduled election pursuant to  
629 § 24.2-217, whether or not the term to which such officer was elected may have expired prior to that  
630 date. When the effective date of the consolidation plan is the same as the end of the term of one or  
631 more existing constitutional officers for the consolidating jurisdictions, an election shall be held to elect  
632 such constitutional officers for the consolidating jurisdictions for a new term to begin on the effective  
633 date of consolidation. Such newly elected officers may or may not become the principal constitutional  
634 officers of the consolidated city under this provision.

635 c. In the event of the establishment of a consolidated city, the persons holding office as the  
636 superintendents of the school divisions within the consolidating jurisdictions may continue in office at  
637 no less than their salaries in effect at the effective date of consolidation, for the terms to which they  
638 were appointed; the consolidated city school board shall designate one of such persons as division  
639 superintendent and the other as associate superintendent; in the event no designation is made on or  
640 before a date stated in the consolidation agreement, the designation shall be made by the circuit court  
641 for the consolidated city; and in the event of a vacancy in the position of superintendent or associate  
642 superintendent during the term to which appointed, the remaining incumbent shall be the superintendent  
643 and the position of associate superintendent shall be abolished.

644 10. In the event of the establishment of a consolidated city, the tax rate on all property of the same  
645 class within the city shall be uniform. However, the council shall have power to levy a higher tax in  
646 such areas of the city which desire additional or more complete services of government than are desired  
647 in the city as a whole, and, in such case, the proceeds therefrom shall be so segregated as to enable the  
648 same to be expended in the areas in which raised; such higher tax rate shall not be levied for school,  
649 police or general government services but only for those services which prior to consolidation were not  
650 offered in the whole of all of the consolidated localities.

651 11. The agreement, when proposing the creation of a consolidated city, may incorporate in a  
652 proposed charter, subject to the subsequent approval of the General Assembly, any provisions of any  
653 charter heretofore granted by the General Assembly for any of the localities proposing to consolidate. It  
654 is the intention of this subsection to permit the drafting by the governing bodies, or the committees  
655 acting for and in lieu of the governing bodies under § 15.2-3531, of a charter to be adopted as a part of  
656 the consolidation agreement for the proposed consolidated city. In such charter the name of the  
657 consolidated city, if agreed upon, shall be inserted in lieu of the name of the city which may be  
658 specified in the original charters from which the provisions are taken, or if the name of the consolidated  
659 city is left to subsequent referendum, then the phrase "the consolidated city" shall be substituted. Any  
660 such charter shall be published as provided in § 15.2-3537 as a part of the consolidation agreement.

661 Any agreement between any localities to form a consolidated city when adopted and approved as  
662 provided herein, together with the charter, shall be the form of the consolidated city. The governing  
663 body of the consolidated city shall have the power to make amendments to the consolidation agreement  
664 not contrary to general law. No such amendments shall become effective until such amendments have  
665 been approved by the General Assembly in accordance with the procedures established by Chapter 2  
666 (§ 15.2-200 et seq.).

667 12. Any agreement between any localities to form a consolidated county may likewise incorporate  
668 provisions of any charter of any such localities proposing to consolidate and also may include the  
669 provisions of any of the optional forms of county government set forth in this title. In any form of  
670 government approved by the voters hereunder, irrespective of any other provisions of law, the initial  
671 membership of the governing body shall be as set forth in such consolidation agreement. Such  
672 agreement when adopted and approved as provided herein shall be the form of the consolidated county,  
673 and the provisions of the first paragraph of subdivision 11 above shall be applicable, mutatis mutandis.

674 The governing body of the consolidated county shall have the power to make amendments to the  
675 consolidation agreement not contrary to general law. No such amendments, excluding membership of the  
676 governing body, shall become effective until such amendments have been approved by the General  
677 Assembly in accordance with the procedures established by Chapter 2 (§ 15.2-200 et seq.).

678 13. In any consolidation by a county and all the towns therein into a consolidated county, or in any  
679 consolidation of a county and a city into a consolidated county, the area of any of such town or towns,  
680 city or cities may be designated as a special service district, and the delivery of water, sewer and similar  
681 type services may be continued. The consolidated county shall have the same powers, rights and duties  
682 with respect to the public rights-of-way, streets and alleys within such district and receive State  
683 Highway Fund allocations as did such town or towns, city or cities prior to consolidation. The roads in  
684 the area formerly located solely within the county shall continue to be maintained as they were prior to  
685 the consolidation, and this subdivision shall not be construed to authorize any allocation from highway  
686 funds not previously authorized. The boundaries of such special service district or districts may be  
687 altered from time to time by ordinance of the governing body duly adopted after public hearing.

688 14. Any consolidation agreement may provide for offering to the voters the option of adopting a city  
689 or county form of government as well as the option between forms of county governments.

690 15. The agreement between a county and the incorporated towns located entirely therein consolidated  
691 pursuant to this article may contain provisions for the establishment of special service tax districts  
692 wherein a tax may be levied on all classes of property within those shires, where, upon the effective  
693 date of the consolidation agreement, there exists, or the consolidation agreement provides for, additional  
694 or more complete governmental services than the level of services which are being provided or will,  
695 under the agreement, be provided in other shires, or in the consolidated county as a whole. Additional or  
696 more complete governmental services include, but are not limited to, water supply, sewerage, garbage  
697 removal and disposal, heat, lighting, streets, sidewalks and storm drains, fire-fighting equipment and  
698 services, and additional law-enforcement services but shall not include separate police forces, additional  
699 schools or other basic governmental services to which all citizens are entitled. Any additional revenue  
700 produced from any such tax shall be segregated into a separate fund and expended by such consolidated  
701 county solely in the shire or special service tax district wherein such additional tax is assessed. The  
702 consolidation agreement shall establish the initial boundary lines of the shires and the tax rates within  
703 each shire. Future adjustments in the boundaries of the shires or special service tax districts shall be  
704 made in accordance with § 15.2-2401, which shall apply to the consolidated county as it does to the  
705 consolidated cities described therein. The governing body of the consolidated county shall have the same  
706 power as the city council referred to in such section. Such governing body also shall have the power to  
707 tax all sources of revenue which the previous county or incorporated towns therein had prior to such  
708 consolidation.

709 16. In the event of consolidation of a county and a city into a single county incorporating a tier-city  
710 therein, any rights provided to counties, cities and towns in Chapters 32 (§ 15.2-3200 et seq.), 33  
711 (§ 15.2-3300 et seq.), 36 (§ 15.2-3600 et seq.), 38 (§ 15.2-3800 et seq.), and 39 (§ 15.2-3900 et seq.)  
712 may be modified or waived in whole or in part, as set forth in the consolidation agreement, provided  
713 that the modification or waiver does not conflict with the Constitution of Virginia and provided that  
714 such provision in the consolidation agreement is approved pursuant to the provisions of Chapter 34  
715 (§ 15.2-3400 et seq.) prior to the effective date of consolidation.

716 17. The agreement may provide for a subsequent referendum of the voters of all or part of one or  
717 more of the consolidating localities to be held after a favorable referendum on the initial question of  
718 consolidating. This subsequent referendum shall take the sense of the voters of an area or areas of the  
719 consolidating localities, as determined in the discretion of the governing bodies of the consolidating  
720 localities, on the question of dividing that area or portion from the newly consolidated locality and  
721 consolidating that area or portion with an adjoining locality not a part of the newly consolidated locality.  
722 The terms and conditions of this division and consolidation may be included in the agreement or may be  
723 determined by the Commission on Local Government if the affected localities are unable to agree. The  
724 nonagreeing locality shall have the right to reject the recommendations of the Commission, and not  
725 accept such area or portion.

726 18. In the event of consolidation of counties and cities into a single city which completely surrounds  
727 another city, the agreement may provide for the subsequent unilateral consolidation of the surrounded  
728 city into the consolidated city at any time. The agreement shall provide that a referendum take the sense  
729 of the voters of the surrounded city on the question of whether the surrounded city and the surrounding  
730 consolidated city shall consolidate.

731 19. In the event of consolidation of such counties and cities into a single city which completely  
732 surrounds another city, the agreement may provide for the subsequent unilateral consolidation and  
733 conversion of the surrounded city to a township within the surrounding consolidated city at any time.  
734 The agreement shall provide that a referendum take the sense of the voters of the surrounded city on the  
735 question of whether such city shall convert to a township. The township may, in the discretion of its

736 council, continue to be called a city and may formally be referred to as ..... city, a Virginia township.  
 737 Such township shall have no right to become an independent city, nor to annex or exercise any  
 738 extraterritorial jurisdiction within the consolidated city but otherwise shall have the rights, powers and  
 739 immunities granted towns. The consolidated city's legal relationship with such township shall be  
 740 governed by the same laws that govern county-town relationships, except as modified herein.

741 § 15.2-4832. Composition of Authority; membership; terms.

742 The Authority shall consist of 17 members as follows:

743 The chief elected officer of the governing body of each county and city embraced by the Authority  
 744 or, in the discretion of the chief elected officer, his designee, who shall be a current elected officer of  
 745 such governing body;

746 Two members of the House of Delegates who reside in different counties or cities embraced by the  
 747 Authority, appointed by the Speaker of the House, to the extent practicable, from the membership of the  
 748 House Committee on Appropriations, the House Committee on Finance, or the House Committee on  
 749 Transportation;

750 One member of the Senate who resides in a county or city embraced by the Authority, appointed by  
 751 the Senate Committee on Rules, to the extent practicable, from the membership of the Senate Committee  
 752 on Finance and the Senate Committee on Transportation; and

753 Two citizens who reside in counties and cities embraced by the Authority, appointed by the  
 754 Governor. One gubernatorial appointment shall include a member of the Commonwealth Transportation  
 755 Board who resides in a county or city embraced by the Authority. The remaining gubernatorial  
 756 appointment shall be a person who has significant experience in transportation planning, finance,  
 757 engineering, construction, or management and shall be a resident of a county or city embraced by the  
 758 Authority, but shall not be a resident of the same county or city as the other gubernatorial appointee to  
 759 the Authority.

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

764 In addition, the following persons shall serve as nonvoting members of the Authority: ~~the Director of~~  
 765 ~~the Virginia Department of Rail and Public~~ *the Chief Executive Officer for Transportation*, or his  
 766 designee; ~~the Commonwealth Transportation Commissioner, or his designee;~~ and the chief elected  
 767 officer of one town in a county which the Authority embraces to be chosen by the Authority.

768 The Authority shall appoint the chairman and vice-chairman.

769 § 15.2-5114. Powers of authority.

770 Each authority is an instrumentality exercising public and essential governmental functions to provide  
 771 for the public health and welfare, and each authority may:

772 1. Exist for a term of 50 years as a corporation, and for such further period or periods as may from  
 773 time to time be provided by appropriate resolutions of the political subdivisions which are members of  
 774 the authority; however, the term of an authority shall not be extended beyond a date 50 years from the  
 775 date of the adoption of such resolutions;

776 2. Adopt, amend or repeal bylaws, rules and regulations, not inconsistent with this chapter or the  
 777 general laws of the Commonwealth, for the regulation of its affairs and the conduct of its business and  
 778 to carry into effect its powers and purposes;

779 3. Adopt an official seal and alter the same at pleasure;

780 4. Maintain an office at such place or places as it may designate;

781 5. Sue and be sued;

782 6. Acquire, purchase, lease as lessee, construct, reconstruct, improve, extend, operate and maintain  
 783 any stormwater control system or water or waste system or any combination of such systems within,  
 784 outside, or partly within and partly outside one or more of the localities which created the authority, or  
 785 which after February 27, 1962, joined such authority; acquire by gift, purchase or the exercise of the  
 786 right of eminent domain lands or rights in land or water rights in connection therewith, within, outside,  
 787 or partly within and partly outside one or more of the localities which created the authority, or which  
 788 after February 27, 1962, joined such authority; and sell, lease as lessor, transfer or dispose of all or any  
 789 part of any property, real, personal or mixed, or interest therein, acquired by it; however, in the exercise  
 790 of the right of eminent domain the provisions of § 25.1-102 shall apply. In addition, the authority in any  
 791 county or city to which §§ 15.2-1906 and 15.2-2146 are applicable shall have the same power of  
 792 eminent domain and shall follow the same procedure provided in §§ 15.2-1906 and 15.2-2146. No  
 793 property or any interest or estate owned by any political subdivision shall be acquired by an authority  
 794 by the exercise of the power of eminent domain without the consent of the governing body of such  
 795 political subdivision. Except as otherwise provided in this section, each authority is hereby vested with  
 796 the same authority to exercise the power of eminent domain as is vested in the ~~Commonwealth~~ *Chief*

797 *Executive Officer for Transportation Commissioner*. In acquiring personal property or any interest, right,  
 798 or estate therein by purchase, lease as lessee, or installment purchase contract, an authority may grant  
 799 security interests in such personal property or any interest, right, or estate therein;

800 7. Issue revenue bonds of the authority, such bonds to be payable solely from revenues to pay all or  
 801 a part of the cost of a stormwater control system or water or waste system;

802 8. Combine any stormwater control system or water or waste system as a single system for the  
 803 purpose of operation and financing;

804 9. Borrow at such rates of interest as authorized by the general law for authorities and as the  
 805 authority may determine and issue its notes, bonds or other obligations therefor. Any political  
 806 subdivision that is a member of an authority may lend, advance or give money to such authority;

807 10. Fix, charge and collect rates, fees and charges for the use of or for the services furnished by or  
 808 for the benefit from any system operated by the authority. Such rates, fees, rents and charges shall be  
 809 charged to and collected from any person contracting for the services or the lessee or tenant who uses or  
 810 occupies any real estate which is served by or benefits from any such system. Water and sewer  
 811 connection fees established by any authority shall be fair and reasonable. Such fees shall be reviewed by  
 812 the authority periodically and shall be adjusted, if necessary, to assure that they continue to be fair and  
 813 reasonable. Nothing herein shall affect existing contracts with bondholders that are in conflict with any  
 814 of the foregoing provisions;

815 11. Enter into contracts with the federal government, the Commonwealth, the District of Columbia or  
 816 any adjoining state or any agency or instrumentality thereof, any unit or any person. Such contracts may  
 817 provide for or relate to the furnishing of services and facilities of any stormwater control system or  
 818 water or waste system of the authority or in connection with the services and facilities rendered by any  
 819 like system owned or controlled by the federal government, the Commonwealth, the District of  
 820 Columbia or any adjoining state or any agency or instrumentality thereof, any unit or any person, and  
 821 may include contracts providing for or relating to the right of an authority, created for such purpose, to  
 822 receive and use and dispose of all or any portion of the refuse generated or collected by or within the  
 823 jurisdiction or under the control of any one or more of them. In the implementation of any such  
 824 contract, an authority may exercise the powers set forth in §§ 15.2-927 and 15.2-928. The power granted  
 825 authorities under this chapter to enter into contracts with private entities includes the authority to enter  
 826 into public-private partnerships for the establishment and operation of water and sewage systems,  
 827 including the authority to contract for, and contract to provide, meter reading, billing and collections,  
 828 leak detection, meter replacement and any related customer service functions;

829 12. Contract with the federal government, the Commonwealth, the District of Columbia, any  
 830 adjoining state, any person, any locality or any public authority or unit thereof, on such terms as the  
 831 authority deems proper, for the construction, operation or use of any project which is located partly or  
 832 wholly outside the Commonwealth;

833 13. Enter upon, use, occupy, and dig up any street, road, highway or private or public lands in  
 834 connection with the acquisition, construction or improvement, maintenance or operation of a stormwater  
 835 control system or water or waste system, or streetlight system in King George County, subject, however,  
 836 to such reasonable local police regulation as may be established by the governing body of any unit  
 837 having jurisdiction;

838 14. Contract with any person, political subdivision, federal agency, or any public authority or unit, on  
 839 such terms as the authority deems proper, for the purpose of acting as a billing and collecting agent for  
 840 sewer service or sewage disposal service fees, rents or charges imposed by any such body;

841 15. Install, own and lease pipe or conduit for the purpose of carrying fiber optic cable, provided that  
 842 such pipe or conduit and the rights-of-way in which they are contained are made available on a  
 843 nondiscriminatory, first-come, first-served basis to retail providers of broadband and other  
 844 telecommunications services unless the facilities have insufficient capacity for such access and additional  
 845 capacity cannot reasonably be added to the facilities; and

846 16. Create, acquire, purchase, own, maintain, use, license, and sell intellectual property rights,  
 847 including any patent, trademark, or copyright, relating to the business of the authority.

848 § 15.2-5146. Use of state land.

849 The Commonwealth hereby consents to the use of all lands above or under water and owned or  
 850 controlled by it which are necessary for the construction, improvement, operation or maintenance of any  
 851 stormwater control system or water or waste system; except that the use of any portion between the  
 852 right-of-way limits of any primary or secondary highway in this Commonwealth shall be subject to the  
 853 approval of the ~~Commonwealth~~ *Chief Executive Officer for Transportation Commissioner*.

854 § 22.1-129. Surplus property; sale, exchange or lease of real and personal property.

855 A. Whenever a school board determines that it has no use for some of its real property, the school  
 856 board may sell such property and may retain all or a portion of the proceeds of such sale upon approval  
 857 of the local governing body and after the school board has held a public hearing on such sale and  
 858 retention of proceeds, or may convey the title to such real property to the county or city or town

859 comprising the school division or, if the school division is composed of more than one county or city,  
860 to the county or city in which the property is located. To convey the title, the school board shall adopt a  
861 resolution that such real property is surplus and shall record such resolution along with the deed to the  
862 property with the clerk of the circuit court for the county or city where such property is located. Upon  
863 the recording of the resolution and the deed, the title shall vest in the appropriate county, city or town.

864 If a school board sells surplus real property, a capital improvement fund shall be established by such  
865 school board and the proceeds of such sale retained by the school board shall accrue to such capital  
866 improvement fund. The capital improvement fund shall only be used for new school construction, school  
867 renovation, and major school maintenance projects.

868 B. A school board shall have the power to exchange real and personal property, to lease real and  
869 personal property either as lessor or lessee, to grant easements on real property, to convey real property  
870 in trust to secure loans, to convey real property to adjust the boundaries of the property and to sell  
871 personal property in such manner and upon such terms as it deems proper. As lessee of real property, a  
872 school board shall have the power to expend funds for capital repairs and improvements on such  
873 property, if the lease is for a term equal to or longer than the useful life of such repairs or  
874 improvements.

875 C. Notwithstanding the provisions of subsections A and B, a school board shall have the power to  
876 sell career and technical education projects and associated land pursuant to § 22.1-234.

877 Notwithstanding the provisions of subsections A and B, a school board of the City of Virginia Beach  
878 shall have the power to sell property to the Virginia Department of Transportation or the  
879 ~~Commonwealth~~ *Chief Executive Officer for Transportation Commissioner* when the ~~Commissioner~~ *Chief*  
880 *Executive Officer for Transportation* has determined that (i) such conveyance is necessary and (ii) when  
881 eminent domain has been authorized for the construction, reconstruction, alteration, maintenance, and  
882 repair of the public highways of the Commonwealth, and for all other purposes incidental thereto,  
883 including, but not limited to, the relocation of public utilities as may be required.

884 D. School boards may donate obsolete educational technology hardware and software that is being  
885 replaced pursuant to subdivision B 4 of § 22.1-199.1. Any such donations shall be offered to other  
886 school divisions, to students, as provided in Board of Education guidelines, and to preschool programs  
887 in the Commonwealth.

888 § 25.1-108. Offer of repurchase to former owner.

889 A. If a condemner has acquired a fee simple interest in property by exercise of its power of eminent  
890 domain and subsequently declares that the property is surplus, the condemner shall offer, within 30 days  
891 following such determination, to sell such property to the former owner or his heirs or other successors  
892 or assigns of record. Upon completion of the stated public use or where the stated public use has been  
893 abandoned, the condemner shall provide written notice, pursuant to subsection B, of such completion or  
894 abandonment to the former property owner or his heirs or other successors or assigns of record. Upon  
895 completion of the stated public use or where the stated public use has been abandoned, the former  
896 property owner or his heirs or other successors or assigns of record may make a written demand that the  
897 condemner declare any excess property as surplus. The right to the offer of repurchase cannot be waived  
898 and any contractual provision or agreement waiving such right is void and unenforceable. The offer to  
899 sell shall be made by the condemner at the price paid by the condemner to the former owner plus  
900 interest at the annual rate of six percent; provided that the condemner may increase the price by the fair  
901 market value of the condemner's improvements, determined at the time the offer to sell is made. In no  
902 case shall the price established by the condemner exceed the fair market value of the property at the  
903 time the offer to sell is made. If no written response is received by the condemner from the former  
904 owner within 90 days after the offer to sell has been made, the former owner shall be deemed to have  
905 waived his right to the offer of repurchase.

906 B. Notice of the offer to repurchase shall be sent by certified mail to (i) the last known address of  
907 the former owner and (ii) the address of the last owner of record as it appears in the tax records of the  
908 local treasurer.

909 C. This section shall not apply to property acquired by the ~~Commonwealth~~ *Chief Executive Officer*  
910 *for Transportation Commissioner* pursuant to Title 33.1.

911 § 25.1-109. Condemnation of lands for compensatory mitigation of wetlands.

912 When authorization is required by federal or state law for any project affecting wetlands and the  
913 authorization is conditioned upon compensatory mitigation for adverse impacts to wetlands, no  
914 condemner shall acquire through exercise of the power of eminent domain any property to satisfy such  
915 condition unless: (i) the property sought to be acquired is located within the same locality as the project  
916 affecting wetlands, or (ii) the governing body of the locality where the property sought to be acquired  
917 consents to its acquisition for such purpose. This section shall not apply to property acquired by the  
918 ~~Commonwealth~~ *Chief Executive Officer for Transportation Commissioner* pursuant to Title 33.1.

919 § 25.1-209. Notice of filing of petition.

920 A. Upon the filing of a petition for condemnation, the petitioner shall give the owners 21 days'  
 921 notice of the filing of such petition and of its intention to apply to the court to ascertain just  
 922 compensation for the property to be taken or affected as a result of the taking and use by the petitioner  
 923 of the property to be so acquired.

924 B. The notice, along with a copy of the petition, shall be served on the owners. In such notice, the  
 925 petitioner shall give notice that an answer and grounds of defense shall be filed setting forth any  
 926 objection or defense to the taking or damaging of his property or to the jurisdiction of the court to hear  
 927 the case and to elect to proceed with the empanelment of a jury for the determination of such just  
 928 compensation.

929 C. The notice may also include notice of the petitioner's application for the right of entry as provided  
 930 in § 25.1-223, if such application is included in the petition as authorized by § 25.1-207.

931 D. A copy of the notice required to be served on the owners by this section also shall be served in  
 932 the same manner upon any tenant entitled to participate in the proceeding pursuant to § 25.1-234, whose  
 933 lease has been duly recorded or whose tenancy is actually known to the petitioner. However, a tenant so  
 934 notified may participate in the proceeding only as permitted by § 25.1-234.

935 E. In addition to any other notice required to be served pursuant to this section, in any proceeding  
 936 instituted by the ~~Commonwealth~~ *Chief Executive Officer for Transportation Commissioner* under this  
 937 title or Title 33.1, a copy of the notice of the filing of the petition also shall be served, in the same  
 938 manner as such notice is served upon owners, upon any person owning structures or improvements for  
 939 which an outdoor advertising permit has been issued by the ~~Commonwealth~~ *Chief Executive Officer for*  
 940 *Transportation Commissioner* pursuant to § 33.1-360.

941 § 25.1-229. Selection of jurors.

942 A. Except as otherwise provided in this section, the provisions of Chapter 11 (§ 8.01-336 et seq.) of  
 943 Title 8.01 shall apply to the selection of condemnation juries mutatis mutandis. While preserving the  
 944 random selection process set forth in § 8.01-345, the jury commissioner shall determine the freeholder  
 945 status of individuals randomly selected by reference to tax rolls or other reliable data the judge of the  
 946 circuit court deems appropriate.

947 B. All of the acting jurors and all of the names drawn for alternate jurors shall be freeholders of  
 948 property within the jurisdiction. On the day set for trial, jurors who appear shall be called to be sworn  
 949 on their voir dire until a disinterested and impartial panel is obtained. A juror may be stricken for cause.  
 950 From the impartial panel the judge shall randomly select 13 jurors. From the panel of 13 jurors each  
 951 party shall have four preemptory strikes. The court may appoint alternate jurors. Five persons from a  
 952 panel of not fewer than 13 jurors shall constitute a jury in a condemnation case. If fewer than seven  
 953 jurors remain before the court prior to the exercise of preemptory strikes, the trial may proceed and be  
 954 heard by less than five jurors provided the parties agree. However, no trial shall proceed with fewer than  
 955 three jurors.

956 C. The conclusion of the jurors need not be unanimous, and a majority of the jurors may act in the  
 957 name of the jury.

958 D. In condemnation proceedings instituted by the ~~Commonwealth~~ *Chief Executive Officer for*  
 959 *Transportation Commissioner*, a person owning structures or improvements for which an outdoor  
 960 advertising permit has been issued by the ~~Commonwealth~~ *Chief Executive Officer for Transportation*  
 961 *Commissioner* pursuant to § 33.1-360 shall be deemed to be an "owner" for purposes of this section.

962 § 33.1-1. State Highway and Transportation Board continued as Commonwealth Transportation  
 963 Board; number and terms of members; removal from office; vacancies.

964 The State Highway and Transportation Board, formerly known as the State Highway and  
 965 Transportation Commission, is continued and shall hereafter be known as the Commonwealth  
 966 Transportation Board. Wherever either "Commission" or "Board" is used in this title referring to the  
 967 State Highway and Transportation Board or the State Highway and Transportation Commission, it shall  
 968 mean the Commonwealth Transportation Board.

969 The Board shall consist of ~~seventeen members: the Secretary of Transportation, the Commonwealth~~  
 970 ~~Transportation Commissioner, the Director of the Department of Rail and Public Transportation, and~~  
 971 ~~fourteen~~14 citizen members. ~~The citizen~~ *Except for those members elected by the General Assembly as*  
 972 *provided in § 33.1-2*, members shall be (i) appointed by the Governor as provided in § 33.1-2, (ii)  
 973 subject to confirmation by the General Assembly, and (iii) removable from office during their respective  
 974 terms by the Governor at his pleasure. Appointments of citizen members shall be for terms of four years  
 975 commencing upon July 1, upon the expiration of the terms of the existing members, respectively. The  
 976 initial terms of the members appointed in January, 1987, shall commence when appointed and shall be  
 977 for terms ending June 30, 1988, June 30, 1989, and June 30, 1990, respectively. Vacancies shall be  
 978 filled by appointment by the Governor, *for those members appointed by the Governor, and by election*  
 979 *by the Joint Committee on Rules, for those members elected by the General Assembly. All appointments*  
 980 *or elections to fill vacancies shall be for the unexpired term and shall be effective until thirty*30 days  
 981 after the next meeting of the ensuing General Assembly and, if confirmed, thereafter for the remainder



982 of the term. No person shall be eligible to serve more than two successive terms of four years; ~~other~~  
983 ~~than the Secretary of Transportation, the Commonwealth Transportation Commissioner, and the Director~~  
984 ~~of the Department of Rail and Public Transportation.~~ A person heretofore or hereafter appointed by *the*  
985 *Governor or elected by the General Assembly* to fill a vacancy may serve two additional successive  
986 terms.

987 The ~~Secretary of Transportation shall serve as Chairman of the Board shall annually elect a~~  
988 ~~chairman and a vice-chairman from its membership.~~ The ~~Secretary chairman and vice-chairman shall~~  
989 ~~have full voting privileges only in the event of a tie.~~ The Commonwealth Transportation Commissioner  
990 shall serve as ~~Vice-Chairman of the Board.~~ The Commissioner shall have voting privileges only in the  
991 event of a tie when he is presiding during the absence of the Chairman. The Director of the Department  
992 of Rail and Public Transportation shall serve without a vote.

993 Whenever in this title and in the Code of Virginia "State Highway Commission" or "State Highway  
994 and Transportation Board" is used, it shall mean "Commonwealth Transportation Board"; "State  
995 Highway Commissioner" or "State Highway and Transportation Commissioner" shall mean or  
996 "Commonwealth Transportation Commissioner" shall mean *Chief Executive Officer for Transportation*;  
997 and all references to "Department of Highways and Transportation" shall refer to the Department of  
998 Transportation.

999 § 33.1-2. Residence requirements; statewide interest.

1000 Of such Board, one member shall be a resident of the territory now included in the Bristol  
1001 construction district, one in the Salem construction district, one in the Lynchburg construction district,  
1002 one in the Staunton construction district, one in the Culpeper construction district, one in the  
1003 Fredericksburg construction district, one in the Richmond construction district, one in the Hampton  
1004 Roads construction district and one in the Northern Virginia construction district. *The foregoing*  
1005 *members of the Board shall be elected by a majority vote of the members present and voting in both*  
1006 *houses of the General Assembly.* The remaining ~~five~~ members shall be appointed from the  
1007 Commonwealth at large, but at least ~~two~~one shall reside in a standard metropolitan statistical ~~areas~~area  
1008 and be designated as *an urban at-large membersmember*, and at least ~~two~~one shall reside outside  
1009 standard metropolitan statistical areas and be designated as *a rural at-large membersmember*. The at-large  
1010 members shall be appointed to represent rural and urban transportation needs and be mindful of the  
1011 concerns of seaports and seaport users, airports and airport users, railways and railway users, and mass  
1012 transit and mass transit users. Each member so appointed shall be mindful of the best interest of the  
1013 Commonwealth at large primarily instead of those of the district from which chosen or of the  
1014 transportation interest represented.

1015 *Board members elected by the General Assembly shall not be removable by the Governor, but may*  
1016 *be removed from office only by a majority vote of the members present and voting in both houses of the*  
1017 *General Assembly.*

1018 § 33.1-3. Election of Chairman; Chief Executive Officer for Transportation.

1019 ~~The Chairman of the Commonwealth Transportation Board shall be the Secretary of Transportation.~~

1020 *The Chief Executive Officer for Transportation shall serve as* Commonwealth Transportation  
1021 Commissioner, hereinafter in this title sometimes called "the Commissioner," *and shall be the chief*  
1022 *executive officer of the Department of Transportation. The Commissioner may, at the time of his*  
1023 ~~appointment, be a nonresident~~ *Chief Executive Officer for Transportation shall be elected for a term of*  
1024 *four years by a majority vote of the Commonwealth Transportation Board, shall be a resident of*  
1025 *Virginia, and shall be an experienced administrator, able to direct and guide the Department in the*  
1026 *establishment and achievement of the Commonwealth's long-range highway and other transportation*  
1027 *objectives and shall be appointed at large.*

1028 The Commissioner shall devote his entire time and attention to his duties as chief executive officer  
1029 of the Department and shall receive such compensation as shall be fixed by the Commonwealth  
1030 Transportation Board, ~~subject to the approval of the Governor.~~ He shall also be reimbursed for his actual  
1031 travel expenses while engaged in the discharge of his duties.

1032 In the event of a vacancy due to the death, temporary disability, retirement, resignation or removal of  
1033 the Commissioner, the ~~Governor~~Board may ~~appoint~~elect and thereafter remove at ~~his~~its pleasure an  
1034 "Acting ~~Commonwealth~~ *Chief Executive Officer for Transportation Commissioner*" until such time as the  
1035 vacancy may be filled as provided in § 33.1-1. Such "Acting ~~Commonwealth~~ *Chief Executive for*  
1036 *Transportation Commissioner*" shall have all powers and perform all duties of the Commissioner as  
1037 provided by law, and shall receive such compensation as may be fixed by the ~~Governor~~Board. In the  
1038 event of the temporary disability, for any reason, of the Commissioner, full effect shall be given to the  
1039 provisions of § 2.2-605.

1040 § 33.1-221.1:1.1. Rail Enhancement Fund.

1041 A. The General Assembly declares it to be in the public interest that railway preservation and  
1042 development of railway transportation facilities are an important element of a balanced transportation

1043 system of the Commonwealth for freight and passengers and further declares it to be in the public  
 1044 interest that the retention, maintenance, improvement and development of the railways are essential to  
 1045 the Commonwealth's continued economic growth, vitality, and competitiveness in national and world  
 1046 markets, and there is hereby created in the state treasury a special nonreverting fund to be known as the  
 1047 Rail Enhancement Fund which shall be considered a special fund within the Transportation Trust Fund,  
 1048 hereafter referred to as "the Fund."

1049 B. The Fund shall be established on the books of the Comptroller, and shall consist of dedications  
 1050 pursuant to § 58.1-2425 and such funds from other sources as may be set forth in the appropriation act  
 1051 and shall be paid into the state treasury and credited to the Fund. Interest earned on moneys in the Fund  
 1052 shall remain in the Fund and be credited to it. Any moneys remaining in the Fund, including interest  
 1053 thereon, at the end of each fiscal year shall not revert to the general fund but shall remain in the Fund.  
 1054 Moneys in the Fund shall be used solely as provided in this section. Expenditures and disbursements  
 1055 from the Fund shall be made by the State Treasurer on warrants issued by the Comptroller upon written  
 1056 request signed by the Director of the Virginia Department of Rail and Public Transportation or the  
 1057 Director's designee.

1058 C. The Director of the Department of Rail and Public Transportation shall administer and expend or  
 1059 commit, subject to the approval of the Commonwealth Transportation Board, the Fund for acquiring,  
 1060 leasing, and/or improving railways or railroad equipment, rolling stock, rights-of-way or facilities, or  
 1061 assisting other appropriate entities to acquire, lease, or improve railways or railroad equipment, rolling  
 1062 stock, rights-of-way or facilities, for freight and/or passenger rail transportation purposes whenever the  
 1063 Board shall have determined that such acquisition, lease, and/or improvement is for the common good of  
 1064 a region of the Commonwealth or the Commonwealth as a whole. Prior to recommending an allocation  
 1065 of the Fund to the Commonwealth Transportation Board, the Director of the Department of Rail and  
 1066 Public Transportation shall consult with and obtain the advice and recommendations of the Rail  
 1067 Advisory Commonwealth Transportation Board established pursuant to ~~§ 33.1-391.3-1~~ § 33.1-1.

1068 D. Projects undertaken pursuant to this section shall be limited to those the Commonwealth  
 1069 Transportation Board shall have determined will result in public benefits to the Commonwealth or to a  
 1070 region of the Commonwealth that are equal to or greater than the investment of funds under this section.  
 1071 Such projects shall include a minimum of 30 percent cash or in-kind matching contribution from a  
 1072 private source, which may include a railroad, a regional authority, or a local government source, or a  
 1073 combination of such sources.

1074 § 33.1-221.1:8. Transportation Partnership Opportunity Fund.

1075 A. There is created the Transportation Partnership Opportunity Fund (the Fund) to be used by the  
 1076 Governor to encourage the development of transportation projects through design-build pursuant to  
 1077 § 33.1-12 (b), the Public-Private Transportation Act (§ 56-556 et seq.) and to provide funds to address  
 1078 the transportation aspects of economic development opportunities. The Fund shall consist of any funds  
 1079 appropriated to it by the general appropriation act and revenue from any other source, public or private.  
 1080 The Fund shall be established on the books of the Comptroller, and any funds remaining in the Fund at  
 1081 the end of a biennium shall not revert to the general fund but shall remain in the Fund. All interest and  
 1082 dividends that are earned on the Fund shall be credited to the Fund. The Governor shall report to the  
 1083 chairmen of the House Committees on Appropriations, Finance, and Transportation and the Senate  
 1084 Committees on Finance and Transportation as funds are awarded in accordance with this section.

1085 B. The Fund shall be a component of the Commonwealth Transportation Fund but not a component  
 1086 or subcomponent of the Transportation Trust Fund or the Highway Maintenance and Operating Fund.  
 1087 Provisions of this title and Title 58.1 relating to the allocations or disbursements of proceeds of the  
 1088 Commonwealth Transportation Fund, the Transportation Trust Fund, or the Highway Maintenance and  
 1089 Operating Fund shall not apply to the Fund.

1090 C. Funds shall be awarded from the Fund by the Governor as grants, revolving loans, or other  
 1091 financing tools and equity contributions to (i) an agency or political subdivision of the Commonwealth  
 1092 or (ii) a private entity or operator which has submitted a proposal or signed a comprehensive agreement  
 1093 to develop a transportation facility pursuant to § 56-556 et seq. Loans shall be approved by the  
 1094 Governor and made in accordance with procedures established by the Commonwealth Transportation  
 1095 Board and approved by the Comptroller. Loans shall be interest-free and shall be repaid to the Fund.  
 1096 The Governor may establish the duration of any loan, but such term shall not exceed seven years. The  
 1097 Virginia Department of Transportation shall be responsible for monitoring repayment of such loans and  
 1098 reporting the receivables to the Comptroller as required.

1099 D. Grants or revolving loans may be used for transportation capacity development on and off site;  
 1100 road, rail, mass transit, or other transportation access costs beyond the funding capability of existing  
 1101 programs; studies of transportation projects including but not limited to environmental analysis,  
 1102 geotechnical assessment, survey, design and engineering, advance right-of-way acquisition, traffic  
 1103 analysis, toll sensitivity studies, financial analysis, or anything else permitted by law. Funds may be  
 1104 used for any transportation project or any transportation facility. Any transportation infrastructure

1105 completed with moneys from the Fund shall not become private property, and the results of any studies  
 1106 or analysis completed as a result of a grant or loan from the Fund shall be property of the  
 1107 Commonwealth.

1108 E. The Commonwealth Transportation Board, ~~in consultation with the Secretary of Transportation~~  
 1109 ~~and the Secretary of Commerce and Trade,~~ shall develop guidelines and criteria that shall be used in  
 1110 awarding grants or making loans from the Fund; however, no grant shall exceed \$5 million and no loan  
 1111 shall exceed \$30 million. No grant or loan shall be awarded until the Governor has provided copies of  
 1112 the guidelines and criteria to the chairmen of the House Committees on Appropriations, Finance, and  
 1113 Transportation and the Senate Committees on Finance and Transportation. The guidelines and criteria  
 1114 shall include provisions including, but not limited to, the number of jobs and amounts of investment that  
 1115 must be committed in the event moneys are being used for an economic development project, a  
 1116 statement of how the studies and analysis to be completed using moneys from the Fund will advance the  
 1117 development of a transportation facility, a process for the application for and review of grant and loan  
 1118 requests, a timeframe for completion of any work, the comparative benefit resulting from the  
 1119 development of a transportation project, assessment of the ability of the recipient to repay any loan  
 1120 funds, and other criteria as necessary to support the timely development of transportation projects. The  
 1121 criteria shall also include incentives to encourage matching funds from any other local, federal, or  
 1122 private source.

1123 F. Within 30 days of each six-month period ending June 30 and December 31, the Governor shall  
 1124 provide a report to the chairmen of the House Committees on Appropriations, Finance and  
 1125 Transportation and the Senate Committees on Finance and Transportation which shall include, but is not  
 1126 limited to, the following information: the location (county, city, or town) of the project; the amount of  
 1127 the grant or loan made or committed from the Fund and the purpose for which it will be used; the  
 1128 number of jobs created or projected to be created and the amount of a company's investment in the  
 1129 Commonwealth if the project is part of an economic development opportunity.

1130 G. The Governor shall provide grants and commitments from the Fund in an amount not to exceed  
 1131 the total value of the moneys contained in the Fund. If the Governor commits funds for years beyond  
 1132 the fiscal years covered under the existing appropriation act, the State Treasurer shall set aside and  
 1133 reserve the funds the Governor has committed, and the funds set aside and reserved shall remain in the  
 1134 Fund for those future fiscal years. No grant or loan shall be payable in the years beyond the existing  
 1135 appropriation act unless the funds are currently available in the Fund.

1136 *§ 33.1-223.2:21. Office of Intermodal Planning and Investment of the Chief Executive Officer for*  
 1137 *Transportation.*

1138 *There is hereby established the Office of Intermodal Planning and Investment of the Chief Executive*  
 1139 *Officer for Transportation, consisting of a director, appointed by the Chief Executive Officer for*  
 1140 *Transportation, and such additional transportation professionals as the Chief Executive Officer for*  
 1141 *Transportation shall determine. The goals of the Office are to provide solutions that link existing*  
 1142 *systems; reduce congestion; improve safety, mobility, and accessibility; and provide for greater travel*  
 1143 *options. It shall be the duty of the director of the Office to advise the Chief Executive Officer for*  
 1144 *Transportation and the Commonwealth Transportation Board on intermodal issues, generally.*

1145 *The purpose of the Office shall be:*

1146 *1. To coordinate and oversee major multimodal corridor studies as directed by the Chief Executive*  
 1147 *Officer for Transportation.*

1148 *2. To assist the Commonwealth Transportation Board in the Development of the Statewide*  
 1149 *Transportation Plan pursuant to § 33.1-23.03;*

1150 *3. To advocate multimodal planning solutions as part of the six-year improvement program;*

1151 *4. To work with and coordinate action of the Virginia Department of Transportation, the Virginia*  
 1152 *Department of Rail and Public Transportation, the Virginia Port Authority, and the Virginia Department*  
 1153 *of Aviation to promote intermodal and multimodal solutions in each agency's strategic and long-range*  
 1154 *plans;*

1155 *5. To work with and review plans of regional transportation agencies and authorities to promote*  
 1156 *intermodal and multimodal solutions;*

1157 *6. To assess implementation of intermodal planning, including periodic comparisons between and*  
 1158 *among statewide and regional multimodal plans;*

1159 *7. To work with and coordinate actions of the agencies of the Commonwealth to assess freight*  
 1160 *movements and promote intermodal and multimodal solutions to address freight needs;*

1161 *8. To assess and coordinate transportation safety needs related to passenger and freight movements*  
 1162 *by all transportation modes;*

1163 *9. To coordinate the adequate accommodation of pedestrian, bicycle, and other forms of*  
 1164 *nonmotorized transportation in the six-year improvement program and other state and regional*  
 1165 *transportation plans;*

1166 10. To develop transportation performance measures and prepare an annual performance report on  
 1167 state and regional efforts;

1168 11. To inventory and assess intermodal facilities of statewide importance, prioritize new facilities,  
 1169 and recommend facilities for consideration in the six-year improvement program; and

1170 12. To identify and facilitate public and private partnerships to achieve the goals of state and  
 1171 regional plans.

1172 § 33.1-351. Policy; definitions.

1173 In order to promote the safety, convenience, and enjoyment of travel on and protection of the public  
 1174 investment in highways within this Commonwealth, to attract tourists and promote the prosperity,  
 1175 economic well-being, and general welfare of the Commonwealth, and to preserve and enhance the  
 1176 natural scenic beauty or aesthetic features of the highways and adjacent areas, the General Assembly  
 1177 declares it to be the policy of the Commonwealth that the erection and maintenance of outdoor  
 1178 advertising in areas adjacent to the rights-of-way of the highways within the Commonwealth shall be  
 1179 regulated in accordance with the terms of this article and regulations promulgated by the Commonwealth  
 1180 Transportation Board pursuant thereto.

1181 The following terms, wherever used or referred to in this article, shall have the following meanings  
 1182 unless a different meaning clearly appears from the context:

1183 "Advertisement" means any writing, printing, picture, painting, display, emblem, drawing, sign, or  
 1184 similar device which is posted or displayed outdoors on real property and is intended to invite or to  
 1185 draw the attention or to solicit the patronage or support of the public to any goods, merchandise, real or  
 1186 personal property, business, services, entertainment, or amusement manufactured, produced, bought, sold,  
 1187 conducted, furnished, or dealt in by any person; the term shall also include any part of an advertisement  
 1188 recognizable as such.

1189 "Advertising structure" means any rigid or semirigid material, with or without any advertisement  
 1190 displayed thereon, situated upon or attached to real property outdoors, primarily or principally for the  
 1191 purpose of furnishing a background or base or support upon which an advertisement may be posted or  
 1192 displayed.

1193 "Business of outdoor advertising" means the erection, use or maintenance of advertising structures or  
 1194 the posting or display of outdoor advertisements by any person who receives profit gained from rentals  
 1195 or any other compensation from any other person for the use or maintenance of such advertising  
 1196 structures or the posting or display of such advertisements, except reasonable compensation for materials  
 1197 and labor used or furnished in the actual erection of advertising structures or the actual posting of  
 1198 advertisements. The business of outdoor advertising shall not include the leasing or rental of advertising  
 1199 structures or advertisements used to advertise products, services, or entertainment sold or provided on  
 1200 the premises where the advertising structures or advertisement is located.

1201 "Centerline of the highway" means a line equidistant from the edges of the median separating the  
 1202 main traveled ways of a divided highway, or the centerline of the main traveled way of a nondivided  
 1203 highway.

1204 "Certification Acceptance Program" means a program which will allow any person, firm, or  
 1205 corporation owning five or more signs, advertisements, or outdoor advertising structures within a  
 1206 municipality to inspect their own signs, advertisements, or outdoor advertising structures two times  
 1207 during each calendar year, with inspections at least four to six months apart, and certify to the  
 1208 Commonwealth Transportation Commissioner that the inspections have been performed and that their  
 1209 outdoor advertising structures meet all applicable laws, rules, and regulations in lieu of paying an annual  
 1210 permit fee as required in §§ 33.1-360, 33.1-361, and 33.1-362. The Commonwealth Transportation  
 1211 Commissioner may, after a hearing, decertify any person, firm, or corporation that fails to perform the  
 1212 required inspections annually or whose sign, advertisement, or outdoor advertising structures are found  
 1213 in violation of any federal, state or local law, rule, or regulation and shall collect all permit fees for the  
 1214 year the decertification occurs and all subsequent years if the Commissioner finds that the violation has  
 1215 been committed.

1216 "Distance from edge of a right-of-way" shall be the horizontal distance measured along a line normal  
 1217 or perpendicular to the centerline of the highway.

1218 "Federal-aid primary highway" means any highway within that portion of the State Highway System  
 1219 as established and maintained under Article 2 (§ 33.1-25 et seq.) of Chapter 1 of Title 33.1, including  
 1220 extensions of such system within municipalities, which ~~has been~~ was approved by the Secretary of  
 1221 Transportation pursuant to subsection (b) of § 103 of Title 23, United States Code, as that system  
 1222 existed on June 1, 1991.

1223 "Highway" means every way or place of whatever nature open to the use of the public for purposes  
 1224 of vehicular travel in this Commonwealth.

1225 "Historic place, museum or shrine" includes only places that are maintained wholly at public expense  
 1226 or by a nonprofit organization.

1227 "Information center" means an area or site established and maintained at rest areas for the purpose of

1228 informing the public of places of interest within the Commonwealth and providing such other  
1229 information as the Commonwealth may consider desirable.

1230 "Interchange" means a grade separated intersection with one or more turning roadways for travel  
1231 between intersection legs, or an intersection at grade, where two or more highways join or cross.

1232 "Lawfully erected" means any sign that was erected pursuant to the issuance of a permit from the  
1233 Commonwealth Transportation Commissioner under § 33.1-360 unless the local governing body has  
1234 evidence of noncompliance with ordinances in effect at the time the sign was erected.

1235 "Legible" means capable of being read without visual aid by a person of normal visual acuity.

1236 "Main traveled way" means the traveled way of a highway on which through traffic is carried. In the  
1237 case of a divided highway, the traveled way of each of the separated roadways for traffic in opposite  
1238 directions is a main traveled way. It does not include such facilities as frontage roads, turning roadways,  
1239 or parking areas.

1240 "Maintain" means to allow to exist.

1241 "Municipalities" means cities and incorporated towns.

1242 "National highway system" means the federal-aid highway system described in subsection (b) of  
1243 § 103 of Title 23, United States Code, and regulations adopted pursuant thereto. For the purpose of this  
1244 article, outdoor advertising controls on the national highway system shall be implemented as those  
1245 highways are designated and approved by congressional action and such designation and approval shall  
1246 be kept on file in the central office of the Department of Transportation and placed in the minutes of the  
1247 Commonwealth Transportation Board by the Commonwealth Transportation Commissioner. Prior to  
1248 congressional approval, highways classified as National System of Interstate and Defense Highways,  
1249 Dwight D. Eisenhower National System of Interstate and Defense Highways, Interstate System, or  
1250 federal-aid primary as defined herein shall be considered as the national highway system.

1251 "National System of Interstate and Defense Highways," "Dwight D. Eisenhower National System of  
1252 Interstate and Defense Highways," and "Interstate System" means the system presently defined in  
1253 subsection (e) of § 103 of Title 23, United States Code.

1254 A "nonconforming sign," "nonconforming advertisement," or "nonconforming advertising structure" is  
1255 one which was lawfully erected adjacent to any highway in the Commonwealth, but which does not  
1256 comply with the provisions of state law, state regulations, or ordinances adopted by local governing  
1257 bodies passed at a later date or which later fails to comply with state law, state regulations, or  
1258 ordinances adopted by local governing bodies due to changed conditions.

1259 "Person" includes an individual, partnership, association or corporation.

1260 "Post" means post, display, print, paint, burn, nail, paste or otherwise attach.

1261 "Real property" includes any property physically attached or annexed to real property in any manner  
1262 whatsoever.

1263 "Rest area" means an area or site established and maintained within or adjacent to the right-of-way  
1264 or under public supervision or control, for the convenience of the traveling public.

1265 "Scenic area" means any public park, area of particular scenic beauty or historical significance  
1266 designated as a scenic area by the Commonwealth Transportation Board.

1267 "Sign" means any outdoor sign, display, device, figure, painting, drawing, message, placard, poster,  
1268 billboard, or other thing which is designed, intended, or used to advertise or inform, any part of the  
1269 advertising or informative contents of which is visible from any highway.

1270 "Town" means an incorporated town.

1271 "Trade name" shall include brand name, trademark, distinctive symbol, or other similar device or  
1272 thing used to identify particular products or services.

1273 "Traveled way" means the portion of a roadway for the movement of vehicles, exclusive of  
1274 shoulders.

1275 "Turning roadway" means a connecting roadway for traffic turning between two intersection legs of  
1276 an interchange.

1277 "Urban area" means an urbanized area or, in the case of an urbanized area encompassing more than  
1278 one state, that part of the "urbanized area" within the Commonwealth, or an urban place.

1279 "Urban place" means an area so designated by the United States Bureau of the Census having a  
1280 population of 5,000 or more and not within any urbanized area, within boundaries fixed by the  
1281 Commonwealth Transportation Commissioner, in his discretion, in cooperation with the governing bodies  
1282 of the several counties, towns or cities affected and the appropriate federal authority. Such boundaries  
1283 shall, as a minimum, encompass the entire urban place designated by the United States Bureau of the  
1284 Census.

1285 "Urbanized area" means an area so designated by the United States Bureau of the Census, within  
1286 boundaries fixed by the Commonwealth Transportation Commissioner, in his discretion, in cooperation  
1287 with the governing bodies of the several counties, towns or cities affected and the appropriate federal  
1288 authority. Such boundaries shall, as a minimum, encompass the entire urbanized area within a state as

1289 designated by the United States Bureau of the Census.

1290 "Virginia byway" and "scenic highway" mean those highways designated by the Commonwealth  
 1291 Transportation Board pursuant to Article 5 (§ 33.1-62 et seq.) of Chapter 1 of this title. For the purposes  
 1292 of the article, a Virginia byway shall mean a scenic byway as referenced in Title 23, United States  
 1293 Code, § 131 (s).

1294 "Visible" means capable of being seen (whether or not legible) without visual aid by a person of  
 1295 normal visual acuity.

1296 § 33.1-391.2. Department of Rail and Public Transportation created; Chief Executive Officer for  
 1297 Transportation to serve as Director.

1298 There is hereby created a Department of Rail and Public Transportation reporting to the Secretary of  
 1299 Transportation and, subject to the policy oversight of the Commonwealth Transportation Board. The  
 1300 Department Chief Executive Officer for Transportation, elected by the Commonwealth Transportation  
 1301 Board as provided in § 33.1-3, shall be headed by a serve as Director of the Department, hereinafter  
 1302 referred to in this title as "Director," who shall be appointed by and serve at the pleasure of the  
 1303 Governor "Director." The Director shall serve as a nonvoting ex-officio member of the Commonwealth  
 1304 Transportation Board and any committee dealing with passenger and freight rail, transportation demand  
 1305 management, ridesharing, and public transportation issues.

1306 § 33.1-391.3:1. Powers, duties, and responsibilities of Rail Advisory Board transferred to  
 1307 Commonwealth Transportation Board.

1308 There is hereby established the Rail Advisory Board to consist of nine members appointed by the  
 1309 Governor for terms of four years. Vacancies shall be filled for the unexpired term in the same manner  
 1310 as the original appointment. One of such appointees shall be an at-large member of the Commonwealth  
 1311 Transportation Board. The members of the Board shall elect a Chairman. The Board may, by majority  
 1312 vote, choose one of its members to serve as vice-chairman. All powers, duties, and responsibilities  
 1313 heretofore vested in the Rail Advisory Board are hereby transferred to the Commonwealth  
 1314 Transportation Board, hereinafter referred to as "the Board." The Board shall, in consultation with the  
 1315 Director, develop recommendations to be presented to the Commonwealth Transportation Board  
 1316 regarding allocations of funds from the Rail Enhancement Fund. The Board shall also advise the  
 1317 Director and the Department on other matters at the request of the Director or the Department. The  
 1318 Board shall meet at the call of the Chairman. A majority of the members shall constitute a quorum for  
 1319 the conduct of all Board business. The provisions of § 2.2-3112 shall not apply to members of the Rail  
 1320 Advisory Board.

1321 The Board shall have the following responsibilities:

1322 1. In consultation with, and with the assistance of the Director, the Board shall develop  
 1323 recommendations to be presented to the Commonwealth Transportation Board regarding all proposed  
 1324 allocations of funds from the Rail Enhancement Fund.

1325 2. The Board shall work cooperatively with the Director of the Department of Rail and Public  
 1326 Transportation and with any affected railroad in identifying, developing, and advocating projects and  
 1327 policies to enhance the quality and utility to the public of rail transportation in the Commonwealth.

1328 3. At the request of the Director, the Board shall consider and advise the Director and the  
 1329 Department on any other matter or matters pertaining to transportation in the Commonwealth.

1330 Members of the Board shall receive no compensation, but shall be reimbursed their actual and  
 1331 necessary expenses incurred in connection with their official duties. Staff support for the Board shall be  
 1332 provided by the Department of Rail and Public Transportation.

1333 § 33.1-391.5. Responsibilities of Department.

1334 The Department shall have the following responsibilities:

1335 1. Determine present and future needs for, and economic feasibility of providing, public  
 1336 transportation, transportation demand management, and ridesharing facilities and services and the  
 1337 retention, improvement, and addition of passenger and freight rail transportation in the Commonwealth;

1338 2. Formulate and implement plans and programs for the establishment, improvement, development  
 1339 and coordination of public transportation, transportation demand management, and ridesharing facilities  
 1340 and services, and the retention and improvement of passenger and freight rail transportation services and  
 1341 corridors in the Commonwealth, and coordinate transportation demand management and innovative  
 1342 technological transportation initiatives with the Department of Transportation;

1343 3. Coordinate with the Department of Transportation in the conduct of research, policy analysis, and  
 1344 planning for the rail and public transportation modes as may be appropriate to ensure the provision of  
 1345 effective, safe, and efficient public transportation and passenger and freight rail services in the  
 1346 Commonwealth;

1347 4. Develop uniform financial and operating data on and criteria for evaluating all public  
 1348 transportation activities in the Commonwealth, develop specific methodologies for the collection of such  
 1349 data by public transit operators, regularly and systematically verify such data by means of financial  
 1350 audits and periodic field reviews of operating data collection methodologies, and develop such other

1351 information as may be required to evaluate the performance and improve the economy or efficiency of  
1352 public transit or passenger and freight rail operations, transportation demand management programs, and  
1353 ridesharing in the Commonwealth;

1354 5. Compile and maintain an up-to-date inventory of all abandoned railroad corridors in the  
1355 Commonwealth abandoned after January 1, 1970;

1356 6. Provide training and other technical support services to transportation operators and ridesharing  
1357 coordinators as may be appropriate to improve public transportation, ridesharing, and passenger and  
1358 freight rail services;

1359 7. Maintain liaison with state, local, district and federal agencies or other entities, private and public,  
1360 having responsibilities for passenger and freight rail, transportation demand management, ridesharing,  
1361 and public transportation programs;

1362 8. Receive, administer and allocate all planning, operating, capital, and any other grant programs  
1363 from the Federal Transit Administration, the Federal Railroad Administration, the Federal Highway  
1364 Administration, and other agencies of the United States government for public transportation, passenger  
1365 and freight rail transportation, transportation demand management, and ridesharing purposes with  
1366 approval of the Board and to comply with all conditions attendant thereto;

1367 9. Administer all state grants for public transportation, rail transportation, ridesharing, and  
1368 transportation demand management purposes with approval of the Board;

1369 10. Promote the use of public transportation, transportation demand management, ridesharing, and  
1370 passenger and freight rail services to improve the mobility of Virginia's citizens and the transportation of  
1371 goods;

1372 11. Represent the Commonwealth on local, regional, and national agencies, industry associations,  
1373 committees, task forces, and other entities, public and private, having responsibility for passenger and  
1374 freight rail, transportation demand management, ridesharing, and public transportation;

1375 12. Represent the Commonwealth's interests in passenger and freight rail, transportation demand  
1376 management, ridesharing, and public transportation and coordinate with the Department of  
1377 Transportation in the planning, location, design, construction, implementation, monitoring, evaluation,  
1378 purchase, and rehabilitation of facilities and services that affect or are used by passenger and freight rail,  
1379 transportation demand management, ridesharing, or public transportation;

1380 13. Coordinate with the State Corporation Commission on all matters dealing with rail safety  
1381 inspections and rail regulations which fall within its purview;

1382 14. Prepare and review state legislation and Commonwealth recommendations on federal legislation  
1383 and regulations as directed by the ~~Secretary of Transportation~~ *Chief Executive Officer for Transportation*;  
1384 and

1385 15. Promote public transportation, ridesharing, and passenger and freight rail safety.

1386 § 46.2-200. Department of Motor Vehicles.

1387 There shall be a Department of Motor Vehicles in the executive department, responsible to the  
1388 Secretary of ~~Transportation~~ *Finance*. The Department shall be under the supervision and management of  
1389 the Commissioner of the Department of Motor Vehicles.

1390 The Department shall be responsible for the administration of the motor vehicle license, registration  
1391 and title laws; the issuance, suspension, and revocation of driver's licenses; the examination of applicants  
1392 for and holders of driver's licenses; the administration, training, disciplining, and assignment of  
1393 examiners of applicants for driver's licenses; the administration of the safety responsibility laws, fuel tax  
1394 laws, the provisions of this title relating to transportation safety, and dealer licensing laws; the  
1395 registration of carriers of passengers or property and vehicles that may be required to be registered  
1396 under the International Registration Plan or pay road tax as described under Chapter 27 (§ 58.1-2700 et  
1397 seq.) of Title 58.1 under the International Fuel Tax Agreement; the audit of carriers of passengers or  
1398 property for compliance with registration and road tax requirements; proof of financial responsibility;  
1399 and any other services that may be required to create a single point of contact for motor carriers  
1400 operating within and without the Commonwealth, including the operation of permanent and mobile  
1401 motor carrier service centers.

1402 § 46.2-206. Disposition of fees.

1403 Except as otherwise provided in this title, all fees and moneys collected pursuant to the provisions of  
1404 Chapters 1, 2, 3, 6, 8, 10, 12, and 16 through 26 of this title shall be paid into the state treasury, and  
1405 warrants for the expenditure of funds necessary for the proper enforcement of this title shall be issued  
1406 by the Comptroller on certificates of the Commissioner or his representatives, designated by him and  
1407 bonded, that the parties are entitled thereto, and shall be paid by the State Treasurer out of such funds,  
1408 not exceeding the amount appropriated in the general appropriation bill.

1409 These funds, except as is otherwise provided in this section, shall constitute special funds within the  
1410 Commonwealth Transportation Fund to be expended (i) under the direction of the ~~Commonwealth~~ *Chief*  
1411 *Executive Officer for Transportation* ~~Commissioner~~ for the construction, reconstruction, and maintenance

1412 of roads and bridges in the state highway system, interstate system, and secondary system of state  
 1413 highways and (ii) as authorized by the Commissioner for the expenses incident to the maintenance of  
 1414 the Department, including its customer service centers, and for other expenses incurred in the  
 1415 enforcement of this title. Any funds available for construction or reconstruction under the provisions of  
 1416 this section shall be, as nearly as possible, equitably apportioned by the Commonwealth Transportation  
 1417 Commission among the several construction districts. Beginning July 1, 1998, any balances remaining in  
 1418 these funds at the end of the fiscal year shall be available for use in subsequent years for the purposes  
 1419 set forth in this section, and any interest income on such funds shall accrue to the respective individual  
 1420 special funds.

1421 There may be paid out of these funds such sums as may be provided by law for (i) contributions  
 1422 toward the construction, reconstruction, and maintenance of streets in cities or towns and (ii) the  
 1423 operation and maintenance of the Department of Transportation, the Department of Rail and Public  
 1424 Transportation, the Department of Aviation, the Virginia Port Authority, the Department of State Police,  
 1425 and the Department of Motor Vehicles.

1426 § 46.2-223. Additional powers and duties of Commissioner.

1427 The Commissioner shall have the following powers and duties related to transportation safety:

1428 1. To evaluate safety measures currently in use by all transport operators in all modes which operate  
 1429 in or through the Commonwealth, with particular attention to the safety of equipment and appliances and  
 1430 methods and procedures of operation;

1431 2. To engage in training and educational activities aimed at enhancing the safe transport of  
 1432 passengers and property in and through the Commonwealth;

1433 3. To cooperate with all relevant entities of the federal government, including, but not limited to, the  
 1434 Department of Transportation, the Federal Railway Administration, the Federal Aviation Administration,  
 1435 the Coast Guard, and the Independent Transportation Safety Board in matters concerning transportation  
 1436 safety;

1437 4. To initiate, conduct, and issue special studies on matters pertaining to transportation safety;

1438 5. To evaluate transportation safety efforts, practices, and procedures of the agencies or other entities  
 1439 of the government of the Commonwealth and make recommendations to the ~~Secretary of~~*Chief Executive*  
 1440 *Officer for* Transportation, the Governor, and the General Assembly on ways to increase transportation  
 1441 safety consciousness or improve safety practices;

1442 6. To assist entities of state government and political subdivisions of the Commonwealth in  
 1443 enhancing their efforts to ensure safe transportation, including the dissemination of relevant materials  
 1444 and the rendering of technical or other advice;

1445 7. To collect, tabulate, correlate, analyze, evaluate, and review the data gathered by various entities  
 1446 of the state government in regard to transportation operations, management, and accidents, especially the  
 1447 information gathered by the Department of Motor Vehicles, the Department of State Police, and the  
 1448 State Corporation Commission;

1449 8. To develop, implement, and review, in conjunction with relevant state and federal entities, a  
 1450 comprehensive highway safety program for the Commonwealth, and to inform the public about it;

1451 9. To assist towns, counties and other political subdivisions of the Commonwealth in the  
 1452 development, implementation, and review of local highway safety programs as part of the state program;

1453 10. To review the activities, role, and contribution of various state entities to the Commonwealth's  
 1454 highway safety program and to report annually and in writing to the Governor and General Assembly on  
 1455 the status, progress, and prospects of highway safety in the Commonwealth;

1456 11. To recommend to the ~~Secretary of~~*Chief Executive Officer for* Transportation, the Governor, and  
 1457 the General Assembly any corrective measures, policies, procedures, plans, and programs which are  
 1458 needed to make the movement of passengers and property on the highways of the Commonwealth as  
 1459 safe as practicable;

1460 12. To design, implement, administer, and review special programs or projects needed to promote  
 1461 highway safety in the Commonwealth;

1462 13. To integrate highway safety activities into the framework of transportation safety in general; and

1463 14. To administer the Traffic Safety Fund established pursuant to § 46.2-749.2:10 and to accept  
 1464 grants, gifts, bequests, and other moneys contributed to, deposited in, or designated for deposit in the  
 1465 Fund.

1466 § 46.2-224. Board of Transportation Safety.

1467 There is hereby established within the Department of Motor Vehicles a Board of Transportation  
 1468 Safety, hereinafter referred to in this section as "the Board," to advise the Commissioner of Motor  
 1469 Vehicles, the ~~Secretary of~~*Chief Executive Officer for* Transportation, and the Governor on transportation  
 1470 safety matters. The Board shall elect a chairman and meet at his call, and shall seek to identify the  
 1471 elements of a comprehensive safety program for all transport modes operating in Virginia. In addition,  
 1472 the Board may consider, study, and report on the following issues: (i) the identification of the unique  
 1473 safety needs of each particular mode of transportation; (ii) the identification of the common elements of



1474 safe transportation operation, regardless of mode of transportation; (iii) the adoption of proven safety  
 1475 practices and technology in use in one mode to other modes of transportation; (iv) the identification of  
 1476 the common elements of accident situations; and (v) the allocation of grant funds made available to the  
 1477 Department.

1478 The Board shall consist of twelve members appointed by the Governor, subject to confirmation of  
 1479 the General Assembly. One member shall be appointed from each of the geographic operating districts  
 1480 used by the Department and shall reside in the district from which he is appointed. The remaining  
 1481 members shall be at-large members representing transportation safety interests in the areas of air, rail,  
 1482 water, motor carriers, pupil transportation, pedestrians, bicyclists, and public transit and, insofar as  
 1483 practical, should reflect fair and equitable statewide representation. Members shall serve for terms of  
 1484 four years, and no member shall serve for more than two full consecutive terms. Appointment and  
 1485 confirmation of Board members under this section shall occur only as the terms of the current members  
 1486 of the Board expire under prior law.

1487 Board members shall be reimbursed for their necessary and actual expenses incurred in the  
 1488 performance of their duties.

1489 § 46.2-302. Driving while restoration of license is contingent on furnishing proof of financial  
 1490 responsibility.

1491 No resident or nonresident (i) whose driver's license or learner's permit has been suspended or  
 1492 revoked by any court or by the Commissioner or by operation of law, pursuant to the provisions of this  
 1493 title or of § 18.2-271, or who has been disqualified pursuant to the provisions of the Virginia  
 1494 Commercial Driver's License Act (§ 46.2-341.1 et seq.), or (ii) who has been forbidden as prescribed by  
 1495 law by the Commissioner, the State Corporation Commission, the ~~Commonwealth~~ *Chief Executive*  
 1496 *Officer for Transportation Commissioner*, or the Superintendent of State Police, to drive a motor vehicle  
 1497 in the Commonwealth shall drive any motor vehicle in the Commonwealth during any period wherein  
 1498 the restoration of license or privilege is contingent upon the furnishing of proof of financial  
 1499 responsibility, unless he has given proof of financial responsibility in the manner provided in Article 15  
 1500 (§ 46.2-435 et seq.) of Chapter 3 of this title. Any person who drives a motor vehicle on the roads of  
 1501 the Commonwealth and has furnished proof of financial responsibility but who has failed to pay a  
 1502 reinstatement fee, shall be tried under § 46.2-300.

1503 A first offense violation of this section shall constitute a Class 2 misdemeanor. A second or  
 1504 subsequent violation of this section shall constitute a Class 1 misdemeanor.

1505 § 46.2-373. Report by law-enforcement officer investigating accident.

1506 A. Every law-enforcement officer who in the course of duty investigates a motor vehicle accident  
 1507 resulting in injury to or death of any person or total property damage to an apparent extent of \$1,000 or  
 1508 more, either at the time of and at the scene of the accident or thereafter and elsewhere, by interviewing  
 1509 participants or witnesses shall, within twenty-four hours after completing the investigation, forward a  
 1510 written report of the accident to the Department. The report shall include the name or names of the  
 1511 insurance carrier or of the insurance agent of the automobile liability policy on each vehicle involved in  
 1512 the accident.

1513 B. Any report filed pursuant to subsection A of this section shall include information as to (i) the  
 1514 speed of each vehicle involved in the accident and (ii) the type of vehicles involved in all accidents  
 1515 between passenger vehicles and vehicles or combinations of vehicles used to transport property, and (iii)  
 1516 whether any trucks involved in such accidents were covered or uncovered.

1517 C. The Department shall supply copies of accident reports received under this section to the  
 1518 ~~Commonwealth~~ *Chief Executive Officer for Transportation Commissioner*, who shall exercise the  
 1519 authority granted to him under §§ 46.2-870 through 46.2-878 to reduce speed limits where accident  
 1520 frequency or severity or other factors may indicate the course of action to be warranted.

1521 § 46.2-675. Certain vehicles engaged in mining or quarrying operations; permit when such vehicle  
 1522 required to cross public highways.

1523 No person shall be required to obtain the registration certificate, license plates and decals or to pay a  
 1524 registration fee prescribed for any motor vehicle engaged in coal mining operations or other types of  
 1525 mining and quarrying operations, if the sole function of the motor vehicle is to haul coal from mine to  
 1526 tipple or to haul other mined or quarried products from mine or quarry to a processing plant. The owner  
 1527 of the vehicle, however, shall first obtain, without charge, a permit from the ~~Commonwealth~~ *Chief*  
 1528 *Executive Officer for Transportation Commissioner* in any case in which the motor vehicle is required to  
 1529 cross the public highways. The ~~Commonwealth~~ *Chief Executive Officer for Transportation Commissioner*  
 1530 shall not issue the permit unless he is satisfied that the owner of the motor vehicle has, at his own  
 1531 expense, strengthened the highway crossing so that it will adequately bear the load and has provided  
 1532 adequate signs, lights, or flagmen as may be required for the protection of the public. Any damage done  
 1533 to the highways as a result of this operation shall be repaired in a manner satisfactory to the  
 1534 Commonwealth Transportation Commissioner at the expense of the vehicle's owner.

1535 § 46.2-819.1. Installation and use of photo-monitoring system or automatic vehicle identification  
1536 system in conjunction with certain toll facilities; penalty.

1537 A. The operator of any toll facility or the locality within which such toll facility is located may  
1538 install and operate or cause to be installed and operated a photo-monitoring system or automatic vehicle  
1539 identification system, or both, at locations where tolls are collected for the use of such toll facility. The  
1540 operator of a toll facility shall send an invoice or bill for unpaid tolls to the registered owner of a  
1541 vehicle as part of an electronic or manual toll collection process, prior to seeking remedies under this  
1542 section.

1543 B. Information collected by a photo-monitoring system or automatic vehicle identification system  
1544 installed and operated pursuant to subsection A shall be limited exclusively to that information that is  
1545 necessary for the collection of unpaid tolls. Notwithstanding any other provision of law, all photographs,  
1546 microphotographs, electronic images, or other data collected by a photo-monitoring system or automatic  
1547 vehicle identification system shall be used exclusively for the collection of unpaid tolls and shall not (i)  
1548 be open to the public; (ii) be sold and/or used for sales, solicitation, or marketing purposes; (iii) be  
1549 disclosed to any other entity except as may be necessary for the collection of unpaid tolls or to a vehicle  
1550 owner or operator as part of a challenge to the imposition of a toll; and (iv) be used in a court in a  
1551 pending action or proceeding unless the action or proceeding relates to a violation of this section or  
1552 upon order from a court of competent jurisdiction. Information collected under this section shall be  
1553 purged and not retained later than 30 days after the collection and reconciliation of any unpaid tolls,  
1554 administrative fees, and/or civil penalties. Any entity operating a photo-monitoring system or automatic  
1555 vehicle identification system shall annually certify compliance with this section and make all records  
1556 pertaining to such system available for inspection and audit by the ~~Commonwealth~~ *Chief Executive*  
1557 *Officer for Transportation Commissioner* or the Commissioner of the Department of Motor Vehicles or  
1558 their designee. Any violation of this subsection shall constitute a Class 1 misdemeanor. In addition to  
1559 any fines or other penalties provided for by law, any money or other thing of value obtained as a result  
1560 of a violation of this section shall be forfeited to the Commonwealth.

1561 The toll facility operator may impose and collect an administrative fee in addition to the unpaid toll  
1562 so as to recover the expenses of collecting the unpaid toll, which administrative fee shall be reasonably  
1563 related to the actual cost of collecting the unpaid toll and not exceed \$100 per violation. Such fee shall  
1564 not be levied upon the operator of the vehicle until the second unpaid toll has been documented. The  
1565 operator of the vehicle shall pay the unpaid tolls and any administrative fee detailed in an invoice or bill  
1566 issued by a toll facility operator. If paid within 30 days of notification, the administrative fee shall not  
1567 exceed \$25.

1568 C. If the matter proceeds to court, the registered owner or operator of a vehicle shall be liable for a  
1569 civil penalty as follows: for a first offense, \$50; for a second offense within one year from the first  
1570 offense, \$100; for a third offense within two years from the second offense, \$250; and for a fourth and  
1571 any subsequent offense within three years from the second offense, \$500 plus, in each case, the unpaid  
1572 toll, all accrued administrative fees imposed by the toll facility operator, and applicable court costs if the  
1573 vehicle is found, as evidenced by information obtained from a photo-monitoring system or automatic  
1574 vehicle identification system as provided in this section, to have used such a toll facility without  
1575 payment of the required toll.

1576 D. Any action under this section shall be brought in the General District Court of the city or county  
1577 in which the toll facility is located.

1578 E. Proof of a violation of this section shall be evidenced by information obtained from a  
1579 photo-monitoring system or automatic vehicle identification system as provided in this section. A  
1580 certificate, sworn to or affirmed by a technician employed or authorized by the operator of a toll facility  
1581 or by the locality wherein the toll facility is located, or a facsimile of such a certificate, based on  
1582 inspection of photographs, microphotographs, videotapes, or other recorded images produced by a  
1583 photo-monitoring system, or of electronic data collected by an automatic vehicle identification system,  
1584 shall be prima facie evidence of the facts contained therein. Any photographs, microphotographs,  
1585 videotape, or other recorded images or electronic data evidencing such a violation shall be available for  
1586 inspection in any proceeding to adjudicate the liability for such violation under this section. A record of  
1587 communication by an automatic vehicle identification device with the automatic vehicle identification  
1588 system at the time of a violation of this section shall be prima facie evidence that the automatic vehicle  
1589 identification device was located in the vehicle registered to use such device in the records of the  
1590 Virginia Department of Transportation.

1591 F. It shall be prima facie evidence that the vehicle described in the summons issued pursuant to  
1592 subsection K of this section was operated in violation of this section.

1593 Upon a finding by a court of competent jurisdiction that the vehicle described in the summons issued  
1594 pursuant to subsection K of this section was in violation of this section, the court shall impose a civil  
1595 penalty upon the registered owner or operator of such vehicle in accordance with the amounts specified  
1596 in subsection C of this section, together with applicable court costs, the operator's administrative fee and

1597 the toll due. Penalties assessed as the result of action initiated by the Virginia Department of  
 1598 Transportation shall be remanded by the clerk of the court which adjudicated the action to the Virginia  
 1599 Department of Transportation's Toll Facilities Revolving Fund. Penalties assessed as the result of action  
 1600 initiated by an operator of a toll facility other than the Virginia Department of Transportation shall be  
 1601 remanded by the clerk of the court which adjudicated the action to the treasurer or director of finance of  
 1602 the county or city in which the violation occurred for payment to the toll facility operator.

1603 The registered owner of such vehicle shall be given reasonable notice by way of a summons as  
 1604 provided in subsection K of this section that his vehicle had been used in violation of this section and  
 1605 such owner shall be given notice of the time and place of the hearing as well as the civil penalty and  
 1606 costs for such offense.

1607 Upon the filing of an affidavit with the court at least 14 days prior to the hearing date by the  
 1608 registered owner of the vehicle stating that he was not the driver of the vehicle on the date of the  
 1609 violation and providing the legal name and address of the operator of the vehicle at the time of the  
 1610 violation, a summons will also be issued to the alleged operator of the vehicle at the time of the offense.

1611 In any action against a vehicle operator, an affidavit made by the registered owner providing the  
 1612 name and address of the vehicle operator at the time of the violation shall constitute prima facie  
 1613 evidence that the person named in the affidavit was operating the vehicle at all the relevant times  
 1614 relating to the matter named in the affidavit.

1615 If the registered owner of the vehicle produces a certified copy of a police report showing that the  
 1616 vehicle had been reported to the police as stolen prior to the time of the alleged offense and remained  
 1617 stolen at the time of the alleged offense, then the court shall dismiss the summons issued to the  
 1618 registered owner of the vehicle.

1619 G. Upon a finding by a court that a person has three or more unpaid tolls and such person fails to  
 1620 pay the required penalties, fees, and unpaid tolls, the court shall notify the Commissioner of the  
 1621 Department of Motor Vehicles, who shall refuse to issue or renew any vehicle registration certificate of  
 1622 any applicant or the license plate issued for the vehicle driven in the commission of the offense until the  
 1623 court has notified the Commissioner that such penalties, fees, and unpaid tolls have been paid. If it is  
 1624 proven that the vehicle owner was not the operator at the time of the offense and upon a finding by a  
 1625 court that the person identified in an affidavit pursuant to subsection F as the operator violated this  
 1626 section and such person fails to pay the required penalties, fees, and unpaid tolls, the court shall notify  
 1627 the Commissioner, who shall refuse to issue or renew any vehicle registration certificate of any applicant  
 1628 or the license plate issued for any vehicle owned or co-owned by such person until the court has  
 1629 notified the Commissioner that such penalties, fees, and unpaid tolls have been paid. Such funds  
 1630 representing payment of unpaid tolls and all administrative fees of the toll facility operator shall be  
 1631 transferred from the court to the Virginia Department of Transportation's Toll Facilities Revolving Fund  
 1632 or, in the case of an action initiated by an operator of a toll facility other than the Virginia Department  
 1633 of Transportation, to the treasurer or director of finance of the county or city in which the violation  
 1634 occurred for payment to the toll facility operator. The Commissioner shall collect a \$40 administrative  
 1635 fee from the registered owner or operator of the vehicle to defray the cost of processing and removing  
 1636 an order to deny registration or registration renewal.

1637 H. For purposes of this section, "operator of a toll facility other than the Virginia Department of  
 1638 Transportation" means any agency, political subdivision, authority, or other entity that operates a toll  
 1639 facility; "owner" means the registered owner of a vehicle on record with the Department of Motor  
 1640 Vehicles. For purposes of this section, "owner" does not mean a vehicle rental or vehicle leasing  
 1641 company; "photo-monitoring system" means a vehicle sensor installed to work in conjunction with a toll  
 1642 collection device that automatically produces one or more photographs, one or more microphotographs, a  
 1643 videotape, or other recorded images of each vehicle at the time it is used or operated in violation of this  
 1644 section; "automatic vehicle identification system" means an electronic vehicle identification system  
 1645 installed to work in conjunction with a toll collection device that automatically produces an electronic  
 1646 record of each vehicle equipped with an automatic vehicle identification device that uses a toll facility;  
 1647 and "automatic vehicle identification device" means an electronic device that communicates by wireless  
 1648 transmission with an automatic vehicle identification system.

1649 I. Any vehicle rental or vehicle leasing company, if named in a summons, shall be released as a  
 1650 party to the action if it provides the operator of the toll facility a copy of the vehicle rental agreement  
 1651 or lease or an affidavit identifying the renter or lessee prior to the date of hearing set forth in the  
 1652 summons. Upon receipt of such rental agreement, lease, or affidavit, a notice shall be mailed to the  
 1653 renter or lessee identified therein. Release of this information shall not be deemed a violation of any  
 1654 provision of the Government Data Collection and Dissemination Practices Act (§ 2.2-3800 et seq.) or the  
 1655 Insurance Information and Privacy Protection Act (§ 38.2-600 et seq.). The toll facility operator shall  
 1656 allow at least 30 days from the date of such mailing before pursuing other remedies under this section.  
 1657 In any action against the vehicle operator, a copy of the vehicle rental agreement, lease, or affidavit

1658 identifying the renter or lessee of the vehicle at the time of the violation is prima facie evidence that the  
1659 person named in the rental agreement, lease, or affidavit was operating the vehicle at all the relevant  
1660 times relating to the matter named in the summons.

1661 J. Imposition of a civil penalty pursuant to this section shall not be deemed a conviction as an  
1662 operator and shall not be made part of the driving record of the person upon whom such civil penalty is  
1663 imposed nor shall it be used for insurance purposes in the provision of motor vehicle insurance  
1664 coverage. The provisions of § 46.2-395 shall not be applicable to any civil penalty, fee, unpaid toll, fine  
1665 or cost imposed or ordered paid under this section for a violation of this section.

1666 K. On a form prescribed by the Supreme Court, a summons for a violation of this section may be  
1667 executed pursuant to § 19.2-76.2. Toll facility personnel or their agents mailing such summons shall be  
1668 considered conservators of the peace for the sole and limited purpose of mailing such summons.  
1669 Notwithstanding the provisions of § 19.2-76, a summons for a violation of this section may be executed  
1670 by mailing by first-class mail a copy thereof to the address of the owner of the vehicle as shown on the  
1671 records of the Department of Motor Vehicles or, if the registered owner has named and provided a valid  
1672 address for the operator of the vehicle at the time of the violation in an affidavit executed pursuant to  
1673 subsection F, such named operator of the vehicle. If the summoned person fails to appear on the date of  
1674 return set out in the summons mailed pursuant to this section, the summons shall be executed in the  
1675 manner set out in § 19.2-76.3.

1676 L. The operator of a toll facility may enter into an agreement with the Department of Motor  
1677 Vehicles, in accordance with the provisions of subdivision 21 of subsection B of § 46.2-208, to obtain  
1678 vehicle owner information regarding the registered owners of vehicles that fail to pay tolls required for  
1679 the use of toll facilities and with the Virginia Department of Transportation to obtain any information  
1680 that is necessary to conduct electronic toll collection. Information provided to the operator of a toll  
1681 facility shall only be used for the collection of unpaid tolls and the operator of the toll facility shall be  
1682 subject to the same conditions and penalties regarding release of the information as contained in  
1683 subsection B.

1684 M. No person shall be subject to both the provisions of this section and to prosecution under  
1685 § 46.2-819 for actions arising out of the same transaction or occurrence.

1686 § 46.2-873.1. Maximum speed limit on nonsurface treated highways for certain counties.

1687 The maximum speed limit on nonsurface treated highways, which are roads that are comprised of an  
1688 earth-aggregate or aggregate surface (i.e., dirt and gravel) that have not been stabilized with a  
1689 bituminous or cementitious material, shall be 35 miles per hour. The maximum speed limit upon such  
1690 highways may be increased or decreased by the ~~Commonwealth~~ *Chief Executive Officer for*  
1691 *Transportation Commissioner* or other authority having jurisdiction over highways. However, such  
1692 increased or decreased maximum speed limit shall be effective only when indicated by sign on the  
1693 highway. For such highways upon which maximum speed limit is not indicated by sign, the maximum  
1694 speed limit shall be 35 miles per hour.

1695 The provisions of this section shall apply only in the Counties of Clarke, Fauquier, Frederick,  
1696 Loudoun, Montgomery, Warren, and Wythe.

1697 § 46.2-877. Minimum speed limits.

1698 No person shall drive a motor vehicle at such a slow speed as to impede the normal and reasonable  
1699 movement of traffic except when reduced speed is necessary for safe operation or in compliance with  
1700 law.

1701 Whenever the ~~Commonwealth~~ *Chief Executive Officer for Transportation Commissioner* or local  
1702 authorities within their respective jurisdictions determine on the basis of a traffic engineering and traffic  
1703 investigation that slow speeds on any part of a highway consistently impede the normal and reasonable  
1704 movement of traffic, the ~~Commissioner~~ *Chief Executive Officer for Transportation* or such local  
1705 authority may determine and declare a minimum speed limit to be set forth on signs posted on such  
1706 highway below which no person shall drive a vehicle except when necessary for safe operation or in  
1707 compliance with law.

1708 § 46.2-878. Authority to change speed limits.

1709 Notwithstanding the other provisions of this article, the ~~Commonwealth~~ *Chief Executive Officer for*  
1710 *Transportation Commissioner* or other authority having jurisdiction over highways may decrease the  
1711 speed limits set forth in § 46.2-870 and may increase or decrease the speed limits set forth in  
1712 §§ 46.2-873 through 46.2-875 on any highway under its jurisdiction; and may establish differentiated  
1713 speed limits for daytime and nighttime by decreasing for nighttime driving the speed limits set forth in  
1714 § 46.2-870 and by increasing for daytime or decreasing for nighttime the speed limits set forth in  
1715 §§ 46.2-873 through 46.2-875 on any highway under his jurisdiction. Such increased or decreased speed  
1716 limits and such differentiated speed limits for daytime and nighttime driving shall be effective only  
1717 when prescribed after a traffic engineering investigation and when indicated on the highway by signs. It  
1718 shall be unlawful to operate any motor vehicle in excess of speed limits established and posted as  
1719 provided in this section. The increased or decreased speed limits over highways under the control of the

1720 ~~Commonwealth~~ *Chief Executive Officer for Transportation Commissioner* shall be effective only when  
 1721 prescribed in writing by the *Chief Executive Officer for Transportation Commissioner* and kept on file in  
 1722 the Central Office of the Department of Transportation. Whenever the speed limit on any highway has  
 1723 been increased or decreased or a differential speed limit has been established and such speed limit is  
 1724 properly posted, there shall be a rebuttable presumption that the change in speed was properly  
 1725 established in accordance with the provisions of this section.

1726 § 46.2-881. Special speed limitation on bridges, tunnels and interstates.

1727 It shall be unlawful to drive any motor vehicle, trailer, or semitrailer on any public bridge, causeway,  
 1728 viaduct, or in any tunnel, or on any interstate at a speed exceeding that indicated as a maximum by  
 1729 signs posted thereon or at its approach by or on the authority of the ~~Commonwealth~~ *Chief Executive*  
 1730 *Officer for Transportation Commissioner*.

1731 The ~~Commonwealth~~ *Chief Executive Officer for Transportation Commissioner*, on request or on his  
 1732 own initiative, may conduct an investigation of any public bridge, causeway, viaduct, tunnel, or  
 1733 interstate and, on the basis of his findings, may set the maximum speed of vehicles which such structure  
 1734 or roadway can withstand or which is necessitated in consideration of the benefit and safety of the  
 1735 traveling public and the safety of the structure or roadway. The ~~Commonwealth~~ *Chief Executive Officer*  
 1736 *for Transportation Commissioner* is expressly authorized to establish and indicate variable speed limits  
 1737 on such structures or roadways to be effective under such conditions as would in his judgment, warrant  
 1738 such variable limits, including but not limited to darkness, traffic conditions, atmospheric conditions,  
 1739 weather, emergencies, and like conditions which may affect driving safety. Any speed limits, whether  
 1740 fixed or variable, shall be prominently posted in such proximity to such structure or roadway as deemed  
 1741 appropriate by the ~~Commonwealth~~ *Chief Executive Officer for Transportation Commissioner*. The  
 1742 findings of the ~~Commissioner~~ *Chief Executive Officer for Transportation* shall be conclusive evidence of  
 1743 the maximum safe speed which can be maintained on such structure or roadway.

1744 § 46.2-883. Signs indicating legal rate of speed and measurement of speed by radar.

1745 Signs to indicate the legal rate of speed and that the speed of motor vehicles may be measured by  
 1746 radar or other electrical devices shall be placed at or near the State boundary on those interstate and  
 1747 primary highways which connect the Commonwealth to other jurisdictions at such locations as the  
 1748 ~~Commonwealth~~ *Chief Executive Officer for Transportation Commissioner*, in his discretion, may select.  
 1749 There shall be a prima facie presumption that such signs were placed at the time of the commission of  
 1750 the offense of exceeding the legal rate of speed, and a certificate by the ~~Commonwealth~~ *Chief Executive*  
 1751 *Officer for Transportation Commissioner* as to the placing of such signs shall be admissible in evidence  
 1752 to support or rebut the presumption. Such legal rate of speed and notice of measurement of speed by  
 1753 radar or other electrical devices may be posted on different signs and need not be posted on the same  
 1754 sign.

1755 § 46.2-930. Loitering on bridges or highway rights-of-way.

1756 Pedestrians shall not loiter on any bridge or in any portion of the right-of-way of any highway where  
 1757 loitering has been determined by the ~~Commonwealth~~ *Chief Executive Officer for Transportation*  
 1758 *Commissioner* or the local governing body of any city or town to present a public safety hazard and on  
 1759 which the ~~Commonwealth~~ *Chief Executive Officer for Transportation Commissioner* or the governing  
 1760 body of any city or town has posted signs prohibiting such action. Any person violating the provisions  
 1761 of this section shall be guilty of a traffic infraction.

1762 § 46.2-932. Playing on highways; use of toy vehicle on highways, persons riding bicycles, electric  
 1763 personal assistive mobility devices, electric power-assisted bicycles, mopeds, etc., not to attach to  
 1764 vehicles; exception.

1765 A. No person shall play on a highway, other than on the sidewalks thereof, within a city or town or  
 1766 on any part of a highway outside the limits of a city or town designated by the ~~Commonwealth~~ *Chief*  
 1767 *Executive Officer for Transportation Commissioner* exclusively for vehicular travel. No person shall use  
 1768 any toy vehicle on the roadway of any highway that (i) has a speed limit greater than 25 miles per hour,  
 1769 (ii) has more than two travel lanes, or (iii) is located outside a residence district as defined in  
 1770 § 46.2-100. The governing bodies of counties, cities, and towns may designate areas on highways under  
 1771 their control where play is permitted and may impose reasonable restrictions on play on such highways.  
 1772 Persons using such devices, except bicycles, electric personal assistive mobility devices, electric  
 1773 power-assisted bicycles, mopeds, and motorcycles, shall keep as near as safely practicable to the far  
 1774 right side or edge of the right traffic lane so that they will be proceeding in the same direction as other  
 1775 traffic.

1776 No person riding on any bicycle, electric personal assistive mobility device, electric power-assisted  
 1777 bicycle, moped, roller skates, skateboards or other devices on wheels or runners, shall attach the same or  
 1778 himself to any vehicle on a highway.

1779 B. Notwithstanding the provisions of subsection A of this section, the governing body of Arlington  
 1780 County may by ordinance permit the use of devices on wheels or runners on highways under such

1781 county's control, subject to such limitations and conditions as the governing body may deem necessary  
1782 and reasonable.

1783 § 46.2-1104. Reduction of limits by Chief Executive Officer for Transportation and local authorities;  
1784 penalties.

1785 The ~~Commonwealth~~ *Chief Executive Officer for Transportation Commissioner*, acting through  
1786 employees of the Department of Transportation, may prescribe the weight, width, height, length, or  
1787 speed of any vehicle or combination of vehicles passing over any highway or section of highway or  
1788 bridge constituting a part of the interstate, primary, or secondary system of highways. Any limitations  
1789 thus prescribed may be less than those prescribed in this title whenever an engineering study discloses  
1790 that it would promote the safety of travel or is necessary for the protection of any such highway.

1791 If the reduction of limits as provided in this section is to be effective for more than 90 days, a  
1792 written record of this reduction shall be kept on file at the central office of the Department of  
1793 Transportation. In instances where the limits, including speed limits, are to be temporarily reduced, the  
1794 representative of the Department of Transportation in the county wherein such highway is located shall  
1795 immediately notify the Chief Engineer for the Department of Transportation of such reduction. The  
1796 Chief Engineer shall either affirm or rescind the action of reducing such limits within five days from the  
1797 date the limits have been posted as hereinafter provided. A list of all highways on which there has been  
1798 a reduction of limits as herein provided shall be kept on file at the central office of the Department of  
1799 Transportation. Anyone aggrieved by such reduction of limits may appeal directly to the ~~Commonwealth~~  
1800 *Chief Executive Officer for Transportation Commissioner* for redress, and if he affirms the action of  
1801 reducing such limits, the Commonwealth Transportation Board shall afford any such aggrieved person  
1802 the opportunity of being heard at its next regular meeting.

1803 The local authorities of counties, cities, and towns, where the highways are under their jurisdiction,  
1804 may adopt regulations or pass ordinances decreasing the weight limits prescribed in this title for a total  
1805 period of no more than 90 days in any calendar year, when an engineering study discloses that operation  
1806 over such highways or streets by reason of deterioration, rain, snow, or other climatic conditions will  
1807 seriously damage such highways unless such weights are reduced.

1808 In all instances where the limits for weight, size, or speed have been reduced by the ~~Commonwealth~~  
1809 *Chief Executive Officer for Transportation Commissioner* or the weights have been reduced by local  
1810 authorities pursuant to this section, signs stating the weight, height, width, length, or speed permitted on  
1811 such highway shall be erected at each end of the section of highway affected and no such reduced limits  
1812 shall be effective until such signs have been posted.

1813 It shall be unlawful to operate a vehicle or combination of vehicles on any public highway or section  
1814 thereof when the weight, size, or speed thereof exceeds the maximum posted by authority of the  
1815 ~~Commonwealth~~ *Chief Executive Officer for Transportation Commissioner* or local authorities pursuant to  
1816 this section.

1817 Any violation of any provision of this section shall constitute a Class 2 misdemeanor. Furthermore,  
1818 the vehicle or combination of vehicles involved in such violation may be held upon an order of the  
1819 court until all fines and costs have been satisfied.

1820 § 46.2-1109. Widths of commercial vehicles.

1821 No commercial vehicle shall exceed 102 inches in width when operating on any interstate highway  
1822 or on any highway designated by the Commonwealth Transportation Board. The width limitation in this  
1823 section shall not include rear view mirrors, turn signal lights, handholds for cab entry and egress, splash  
1824 suppressant devices, and load-induced tire bulge. Safety devices, with the exception of rear view mirrors,  
1825 shall not extend more than three inches on each side of a vehicle. The Commonwealth Transportation  
1826 Board shall designate reasonable access to terminals, facilities for food, fuel, repairs, and rest. Household  
1827 goods carriers and any tractor truck semitrailer combination in which the semitrailer has a length of no  
1828 more than twenty-eight and one-half feet shall not be denied reasonable access to points of loading and  
1829 unloading, except as designated, based on safety considerations, by the Commonwealth Transportation  
1830 Board. No reasonable access designation shall be made, however, until notice of any proposed  
1831 designation has been provided by the ~~Commonwealth~~ *Chief Executive Officer for Transportation*  
1832 *Commissioner* to the governing body of every locality wherein any highway affected by the proposed  
1833 designation is located.

1834 For the purposes of this section, a commercial vehicle is defined as a loaded or empty motor vehicle,  
1835 trailer, or semitrailer designed or regularly used for carrying freight, merchandise, or more than ten  
1836 passengers, including buses, but not including vehicles used for vanpools.

1837 § 46.2-1110. Height of vehicles; damage to overhead obstruction; penalty.

1838 No loaded or unloaded vehicle shall exceed a height of 13 feet, six inches.

1839 Nothing contained in this section shall require either the public authorities or railroad companies to  
1840 provide vertical clearances of overhead bridges or structures in excess of 12 feet, six inches, or to make  
1841 any changes in the vertical clearances of existing overhead bridges or structures crossing highways. The  
1842 driver or owner of vehicles on highways shall be held financially responsible for any damage to

1843 overhead bridges or structures that results from collisions therewith.

1844 The driver or owner of any vehicle colliding with an overhead bridge or structure shall immediately  
1845 notify, either in person or by telephone, a law-enforcement officer or the public authority or railroad  
1846 company, owning or maintaining such overhead bridge or structure of the fact of such collision, and his  
1847 name, address, driver's license number, and the registration number of his vehicle. Failure to give such  
1848 notice immediately, either in person or by telephone, shall constitute a Class 1 misdemeanor.

1849 On any highway over which there is a bridge or structure having a vertical clearance of less than 14  
1850 feet, the ~~Commonwealth~~ *Chief Executive Officer for Transportation* ~~Commissioner~~ shall have at least two  
1851 signs erected setting forth the height of the bridge or structure. Such signs shall be located at least 1,500  
1852 feet ahead of the bridge or structure.

1853 The Virginia Department of Transportation may install and use overheight vehicle optical detection  
1854 systems to identify vehicles that exceed the overhead clearance of the westbound tunnel of the Hampton  
1855 Roads Bridge Tunnel on Interstate Route 64. When the optical system sensor located closest to the  
1856 westbound tunnel entrance is used in identifying such vehicles, the system shall be installed at the  
1857 specified height as determined by measurement standards that have been certified by the Commissioner  
1858 of the Virginia Department of Agriculture and Consumer Services, and are traceable to national  
1859 standards of measurement. Such identification by such system shall, for all purposes of law, be  
1860 equivalent to having measured the height of the vehicle with a tape measure or other measuring device.

1861 Any person who drives or attempts to drive any vehicle or combination of vehicles into or through  
1862 any tunnel when the height of such vehicle, any vehicle in a combination of vehicles, or any load on  
1863 any such vehicle exceeds that permitted for such tunnel, shall be guilty of a misdemeanor and, in  
1864 addition, shall be assessed three driver demerit points. In addition, the driver of any such vehicle shall  
1865 be fined \$1,000, of which \$1,000 shall be a mandatory minimum. For subsequent offenses, the owner of  
1866 any such vehicle shall be fined \$2,500, of which \$2,500 shall be a mandatory minimum.

1867 A violation of this section shall be deemed for all purposes a moving violation.

1868 § 46.2-1112. Length of vehicles, generally; special permits; tractor truck semitrailer combinations,  
1869 etc., operating on certain highways; penalty.

1870 Except for buses and motor homes, no motor vehicle longer than 40 feet shall be operated on any  
1871 highway in the Commonwealth. The actual length of any combination of vehicles coupled together  
1872 including any load thereon shall not exceed a total of 65 feet. However, the length of a tractor truck  
1873 semitrailer combination may exceed 65 feet in length, provided the semitrailer does not exceed 53 feet  
1874 in length and the distance between the kingpin of the semitrailer and the rearmost axle or a point  
1875 midway between the rear tandem axles does not exceed 41 feet. The ~~Commonwealth~~ *Chief Executive*  
1876 *Office for Transportation* ~~Commissioner~~ may impose restrictions on the operation of vehicles exceeding  
1877 65 feet in length on certain roads, based on a safety and engineering analysis. No bus or motor home  
1878 longer than 45 feet shall be operated on any highway in the Commonwealth. No tolerance shall be  
1879 allowed that exceeds 12 inches.

1880 The Commissioner, however, when good cause is shown, may issue a special permit for  
1881 combinations either in excess of 65 feet, including any load thereon, or where the object or objects to be  
1882 carried cannot be moved otherwise. Such permits may also be issued by the Department when the total  
1883 number of otherwise overdimensional loads of modular housing of no more than two units may be  
1884 reduced by permitting the use of an overlength trailer not exceeding 54 feet. No permit shall be issued  
1885 by the Commissioner until an engineering analysis of a proposed routing has been conducted by the  
1886 ~~Commonwealth~~ *Chief Executive Officer for Transportation* ~~Commissioner~~ to assess the ability of the  
1887 roadway to be traversed to sustain the vehicle's size.

1888 No overall length restrictions, however, shall be imposed on any tractor truck semitrailer  
1889 combinations drawing one trailer or any tractor truck semitrailer combinations when operated on any  
1890 interstate highway or on any highway as designated by the Commonwealth Transportation Board. No  
1891 such designation shall be made, however, until notice of any proposed designation has been provided by  
1892 the ~~Commonwealth~~ *Chief Executive Officer for Transportation* ~~Commissioner~~ to the governing body of  
1893 every locality wherein any highway affected by the proposed designation is located.

1894 No individual semitrailer or trailer being drawn in a tractor truck semitrailer trailer combination,  
1895 however, shall exceed 28 1/2 feet in length, and no semitrailer being operated in a tractor truck  
1896 semitrailer combination shall exceed 48 feet in length, except when semitrailers have a distance of not  
1897 more than 41 feet between the kingpin of the semitrailer and the rearmost axle or a point midway  
1898 between the rear tandem axles, such semitrailer shall be allowed not more than 53 feet in length.

1899 The length limitations on semitrailers and trailers in the foregoing provisions of this section shall be  
1900 exclusive of safety and energy conservation devices, steps and handholds for entry and egress, rubber  
1901 dock guards, flexible fender extensions, mudflaps, refrigeration units, and air compressors. The  
1902 Commonwealth Transportation Board shall designate reasonable access to terminals, facilities for food,  
1903 fuel, repairs and rest. Household goods carriers and any tractor truck semitrailer combination in which

1904 the semitrailer has a length of no more than 28 1/2 feet shall not be denied reasonable access to points  
 1905 of loading and unloading, except as designated, based on safety considerations, by the Commonwealth  
 1906 Transportation Board.

1907 Any person operating a vehicle whose length is not in conformity with the provisions of this chapter  
 1908 on a two-lane highway where passing is permitted shall be guilty of a traffic infraction and fined \$250.

1909 § 46.2-1144.1. Overweight permits for tank wagons.

1910 The Commissioner, upon written application and payment of a fee by the owner of tank wagon  
 1911 vehicles as defined in § 58.1-2201, shall issue overweight permits for operation of said vehicles.

1912 The overweight permit fees shall be based on a fee schedule established by the ~~Commonwealth~~ *Chief*  
 1913 *Executive Officer for Transportation Commissioner*. Such fees shall be dedicated to and deposited into  
 1914 the Highway Maintenance and Operating Fund.

1915 The Commissioner may also assess a separate application fee for applications pursuant to this section  
 1916 that covers the administrative expenses of the Department. Funds from the application fee are to be  
 1917 designated as specified in § 46.2-1149.3.

1918 No permit issued under this section shall authorize a single axle weight of more than 24,000 pounds  
 1919 and a total gross weight in excess of 40,000 pounds. Permits issued under this section shall be valid for  
 1920 one year from the date of issuance. No permit issued under this section shall authorize violation of any  
 1921 weight limitation, promulgated and posted in accordance with § 46.2-1130, applicable to bridges or  
 1922 culverts. This permit shall not be combined with any other overweight permit or extension of weight  
 1923 limits.

1924 § 46.2-1145. Overweight permits for certain trucks operated by Arlington County.

1925 The ~~Commonwealth~~ *Chief Executive Officer for Transportation Commissioner*, upon written  
 1926 application by Arlington County, shall issue without cost to such county a permit authorizing the  
 1927 county's operation of vehicles used for hauling household waste and vehicles used for highway or utility  
 1928 construction, operation, or maintenance upon the highways of such county at gross weights exceeding  
 1929 those set forth in § 46.2-1126. Permits issued hereunder shall specify that vehicles with two axles may  
 1930 have a maximum gross weight of no more than 48,000 pounds and a single axle weight of not more  
 1931 than 24,000 pounds and that vehicles with three axles may have a maximum gross weight of not more  
 1932 than 60,000 pounds and a single axle weight of not more than 24,000 pounds and a tandem axle weight  
 1933 of not more than 40,000 pounds.

1934 The permit shall not designate the route to be traversed nor contain restrictions or conditions not  
 1935 applicable to other vehicles in their general use of the highways. Each vehicle, when loaded according  
 1936 to the provisions of a permit issued under this section shall be operated at a reduced speed of ten miles  
 1937 per hour slower than the legal speed limit in fifty-five, forty-five, and thirty-five miles per hour speed  
 1938 limit zones.

1939 § 46.2-1223. Authority of Chief Executive Officer for Transportation to regulate parking on certain  
 1940 parts of State Highway System.

1941 Except as otherwise provided in this article, the ~~Commonwealth~~ *Chief Executive Officer for*  
 1942 *Transportation Commissioner* may, by regulation, regulate parking on any part of the primary and  
 1943 secondary systems of state highways.

1944 § 46.2-1307. Designation of private roads as highways for law-enforcement purposes.

1945 The governing body of any county, city, or town may adopt ordinances designating the private roads,  
 1946 within any residential development containing 100 or more lots or residential dwelling units, as  
 1947 highways for law-enforcement purposes. Such ordinance may also provide for certification of road signs  
 1948 and speed limits by private licensed professional engineers using criteria developed by the  
 1949 ~~Commonwealth~~ *Chief Executive Officer for Transportation Commissioner*, and, for law-enforcement  
 1950 purposes, such certification shall have the same effect as if certified by the Commonwealth  
 1951 Transportation Commissioner.

1952 § 46.2-1307.1. Designation of private roads as highways for law-enforcement purposes in Warren  
 1953 County.

1954 Notwithstanding the provisions of § 46.2-1307, the governing body of Warren County may adopt  
 1955 ordinances designating the private roads, within any residential development containing 50 or more lots,  
 1956 as highways for law-enforcement purposes. Such ordinance may also provide for certification of road  
 1957 signs and speed limits by private licensed professional engineers using criteria developed by the  
 1958 ~~Commonwealth~~ *Chief Executive Officer for Transportation Commissioner*, and, for law-enforcement  
 1959 purposes, such certification shall have the same effect as if certified by the ~~Commonwealth~~ *Chief*  
 1960 *Executive Officer for Transportation Commissioner*.

1961 § 53.1-58. Highway employees as guards.

1962 The Director, with the consent of the ~~Commonwealth~~ *Chief Executive Office for Transportation*  
 1963 *Commissioner*, may appoint and authorize employees of the Department of Transportation to act as  
 1964 guards of prisoners when such prisoners are at work on the roads under the jurisdiction of the  
 1965 Commonwealth Transportation Board. Such employees shall be deemed to be acting within the scope of



1966 their official duties for the Board when acting as guards pursuant to this section. The Director may  
1967 authorize such employees to carry firearms in accordance with § 53.1-29.

1968 § 55-201.1. Pendency of escheat proceedings no bar to condemnation proceedings.

1969 Notwithstanding any provision contained in this chapter, the Commonwealth Chief Executive Office  
1970 for Transportation Commissioner or any city, town, county or other political subdivision or agency of  
1971 this Commonwealth possessing the power of eminent domain may, for any public purpose and  
1972 notwithstanding the pendency of any proceeding brought for the escheat of any land wanted and needed  
1973 by such Commonwealth Chief Executive Officer for Transportation Commissioner or such city, town,  
1974 county or other political subdivision or agency of this the Commonwealth for such purpose, institute,  
1975 maintain and conduct to final judgment condemnation proceedings to acquire in fee simple such land or  
1976 such lesser estate, title or interest therein as is wanted and needed for such public purpose, provided,  
1977 however, that the escheator in whose name such escheat proceedings be pending and the Commonwealth  
1978 of Virginia be made codefendants to such condemnation proceedings, together with the owner or  
1979 owners, if known, of the land proposed to be condemned in such proceeding. The pendency of such  
1980 escheat proceedings shall not constitute a bar or defense to such condemnation proceedings, nor to any  
1981 proceeding therein seeking a right of entry as provided in § 25.1-223, in Chapter 3 (§ 25.1-300 et seq.)  
1982 of Title 25.1, or in Article 7 (§ 33.1-89 et seq.) of Chapter 1 of Title 33.1. No escheator, after being  
1983 served with notice of the filing of any such condemnation proceeding, shall sell or dispose of any land  
1984 sought to be acquired in such condemnation proceeding except upon order entered by the court in which  
1985 such condemnation proceeding is pending. The funds paid into court as compensation and/or damages  
1986 for the land so taken or damaged shall, after payment of taxes and other claims constituting valid liens  
1987 against the land so taken, be ordered distributed to the party or parties entitled thereto or be ordered  
1988 paid to the escheator of said land, or to the State Treasurer, as the court, in its discretion, shall direct.

1989 § 56-27. Applications required for crossings.

1990 Before the work is commenced upon any such crossing, the public service corporation which  
1991 proposes to cross the public road shall make written application to and submit to the board of  
1992 supervisors or other governing body of the county in which such highway is located and to the  
1993 Commonwealth Chief Executive Officer for Transportation Commissioner plans, specifications and  
1994 descriptions of the proposed crossing and of the proposed appliances and methods of operation thereof;  
1995 and if the plans, specifications and descriptions are not accepted by such board of supervisors or other  
1996 governing body aforesaid and by the Commonwealth Chief Executive Officer for Transportation  
1997 Commissioner within sixty60 days after the same shall have been delivered to the clerk of such board of  
1998 supervisors or other governing body aforesaid and to the Commonwealth Chief Executive Officer for  
1999 Transportation Commissioner, such public service corporation may then proceed with the construction  
2000 and operation of the crossing, under the plans, specifications and descriptions and with the appliances  
2001 and methods so submitted.

2002 § 56-28. Contest by county or Chief Executive Officer for Transportation.

2003 The board of supervisors or other governing body aforesaid or the Commonwealth Chief Executive  
2004 Officer for Transportation Commissioner may, however, within thirty30 days from the date of the  
2005 submission of such plans, specifications and descriptions, reject the same, and may apply to the  
2006 Commission to inquire into the necessity for such crossing, and the propriety of the proposed location,  
2007 and all matters pertaining to its construction and operation; and, thereupon the Commission, in its  
2008 discretion, may, after notice served upon the public service corporation, the board of supervisors or other  
2009 governing body aforesaid, and the Commonwealth Chief Executive Officer for Transportation  
2010 Commissioner, suspend work on such crossing for such reasonable time prescribed in such notice as it  
2011 may deem necessary to make such inquiry. The Commission may, in its discretion, employ expert  
2012 engineers, at a cost not to exceed \$500, to be paid by the public service corporation desiring the  
2013 crossing, who shall, with the Commission, or some member thereof, or such person as the Commission  
2014 may designate, (1) examine the location, plans, specifications and descriptions of appliances and  
2015 methods proposed to be employed, (2) hear any objection, and consider any modification that the board  
2016 of supervisors or other governing body aforesaid, or the Commonwealth Chief Executive Officer for  
2017 Transportation Commissioner, may desire to offer, and, (3) within such time as the Commission may  
2018 fix, reject, approve, or modify such plans, specifications and descriptions. The final order of the  
2019 Commission shall, unless an appeal be taken to the Supreme Court by any party to the proceeding  
2020 within thirty30 days of the date of such final order, be final and binding on the public service  
2021 corporation and the board of supervisors or other governing body aforesaid, and the Commonwealth  
2022 Chief Executive Officer for Transportation Commissioner.

2023 § 56-29. Change of course of highway to avoid crossings.

2024 If any public service corporation desires that the course of any public road shall be changed to avoid  
2025 the necessity of any crossing, or frequent crossings of the same, or for any other purpose in connection  
2026 with the crossing, the change may be made in such manner, and on such terms as may be agreed on by

2027 the company desiring the change and by the board of supervisors or other governing body aforesaid and  
2028 the ~~Commonwealth Chief Executive Officer for Transportation Commissioner~~, after changes shall have  
2029 been first clearly indicated on plans and specifications submitted to the board of supervisors or other  
2030 governing body aforesaid, and the ~~Commonwealth Chief Executive Officer for Transportation~~  
2031 ~~Commissioner~~, and after the plans and specifications shall have been approved in writing both by the  
2032 board of supervisors or other governing body aforesaid, and the ~~Commonwealth Chief Executive Officer~~  
2033 ~~for Transportation Commissioner~~.

2034 § 56-32. Limitation on crossing rights if altering, closing or obstructing highway or stream involved.

2035 No state highway or county road or stream, or watercourse, shall be altered, closed or obstructed by  
2036 any public service corporation for any of the purposes mentioned in § 56-23 until it shall have first  
2037 submitted plans and specifications to the board of supervisors or other governing body aforesaid, and to  
2038 the ~~Commonwealth Chief Executive Officer for Transportation Commissioner~~, of the proposed alteration,  
2039 closing or obstruction, and until after the plans and specifications shall have been first approved in  
2040 writing both by the board of supervisors or other governing body aforesaid, and by the ~~Commonwealth~~  
2041 ~~Chief Executive Officer for Transportation Commissioner~~. And in any such case such public service  
2042 corporation shall provide and construct an equally convenient highway or waterway in lieu of any such  
2043 highway or waterway so altered, closed or obstructed.

2044 § 56-366.1. Proceedings to avoid or eliminate grade crossings by grade separation or to widen,  
2045 strengthen, remodel, relocate or replace existing crossing structures on public highways.

2046 Whenever a road in the State Highway System or a public highway maintained by a locality (i)  
2047 crosses a railroad, (ii) is projected across a railroad, or (iii) is to be so changed as to cross a railroad, or  
2048 an existing overpass or underpass crossing of any such road and a railroad is in need of widening,  
2049 strengthening, remodeling, relocating or replacing, and funds are (or are to be) allocated by the  
2050 Commonwealth Transportation Board or public road authority for payment of the locality's or state's  
2051 portion of the cost of constructing such an overpass or underpass structure or for widening,  
2052 strengthening, remodeling, relocating or replacing such an existing structure, the ~~Commonwealth Chief~~  
2053 ~~Executive Officer for Transportation Commissioner~~ or representative of the public road authority may  
2054 agree with the railroad company or companies involved, on such terms and conditions as he shall deem  
2055 in the best interests of the Commonwealth or locality regarding the plans and specifications, the method  
2056 and manner of construction and the division of costs and maintenance responsibility of any such  
2057 separation of grade structure. In case of a separation of grade by structure at a new, or an existing,  
2058 grade crossing, the project, except in special cases and under special circumstances to be mutually  
2059 agreed upon by the ~~Commonwealth Chief Executive Officer for Transportation Commissioner~~, the public  
2060 road authority, and the railroad company or companies involved, shall be deemed to start at points on  
2061 each side of the tracks of the railroad or railroads where the grade, under the proposed plans and  
2062 specifications, leaves the ground line to go over or under, as the case may be, the tracks of the railroad  
2063 or railroads.

2064 In the event the ~~Commonwealth Chief Executive Officer for Transportation Commissioner~~, the public  
2065 road authority, and the railroad company or companies involved are unable to agree on (i) the necessity  
2066 for the construction of such underpass or overpass structure or for the widening, strengthening,  
2067 remodeling, relocating or replacing of any existing overpass or underpass structure, (ii) the plans and  
2068 specifications for and method or manner of construction thereof, or (iii) the portion of the work, if any,  
2069 to be done and the share of the cost of such project, if any, to be borne by each of the railroad  
2070 company or companies involved, the ~~Commonwealth Chief Executive Officer for Transportation~~  
2071 ~~Commissioner~~ or the public road authority shall petition the State Corporation Commission setting forth  
2072 the plans and specifications for and the method and manner of construction of such project and the facts  
2073 which in his opinion justify the elimination of the crossing, the erection of a new separation of grade  
2074 structure or the widening, strengthening, remodeling, relocating or replacing of an existing structure and  
2075 the maintenance responsibility. Copies of the petition and the plans and specifications shall forthwith be  
2076 served by the State Corporation Commission on the railroad company or companies involved. Within  
2077 twenty days after service on it of such petition and plans and specifications, the railroad company or  
2078 companies shall file an answer with the State Corporation Commission setting out its objections to the  
2079 proposed project and the Commission shall hear and determine the matter as other matters are heard and  
2080 determined by that body. The Commission shall consider all the facts and circumstances surrounding the  
2081 case and shall determine (a) whether public necessity and convenience justifies or requires the  
2082 construction of such new separation of grade structure or whether an existing structure is so dangerous  
2083 to or insufficient to take care of traffic on the highway as to require the widening, strengthening,  
2084 remodeling, relocating or replacing proposed, (b) whether the plans and specifications or method and  
2085 manner of construction are proper and appropriate, and (c) what portion of the work, if any, to be done  
2086 and what share of the cost of such project, if any, to be borne by each of the railroad company or  
2087 companies involved (excluding the cost of right-of-way) is fair and reasonable, having regard to the  
2088 benefits, if any, accruing to such railroad or railroads from the elimination of such grade crossing or the

2089 widening, strengthening, remodeling, relocating or replacing any existing overpass or underpass  
2090 structure, and either dismiss the proceeding as against the railroad company or companies involved or  
2091 enter an order deciding and disposing of all of the matters hereinbefore submitted to its jurisdiction.

2092 Grade crossings shall be closed when replaced by a new public highway. However, the  
2093 Commonwealth Transportation Board or the public road authority may authorize the continued use of  
2094 the crossing for a period of two years following the construction of the new highway to familiarize the  
2095 public with the new route.

2096 § 56-366.3. Proceedings to alter, rebuild or replace existing grade separation structure destroyed or  
2097 rendered unusable.

2098 In the event an existing overpass or crossing over a railroad is destroyed or rendered unusable or  
2099 otherwise becomes necessary to alter, rebuild, or replace, which overpass or crossing is maintained by a  
2100 railroad company, such company shall immediately notify the ~~Commonwealth~~ *Chief Executive Officer*  
2101 *for Transportation Commissioner*, or the public road authority of its intent to formulate plans for such  
2102 alteration, rebuilding, or replacement. The ~~Commissioner~~ *Chief Executive Officer for Transportation* or  
2103 the public road authority shall, as soon as practicable after receipt of such notice, determine if, in  
2104 consideration of the needs of the state systems of highways, the work to be done on such existing  
2105 separation structure should encompass any upgrading of such overpass. Upon reaching such decision, the  
2106 ~~Commissioner~~ *Chief Executive Officer for Transportation* or the public road authority shall forthwith  
2107 notify the company thereof.

2108 If the ~~Commissioner~~ *Chief Executive Officer for Transportation* or representative of the public road  
2109 authority determines that upgrading is not necessary, the company, within six months of notice thereof,  
2110 shall, in consultation with the ~~Commissioner~~ *Chief Executive Officer for Transportation* or representative  
2111 of the public road authority, formulate and submit plans to the ~~Commissioner~~ *Chief Executive Officer for*  
2112 *Transportation* or representative of the public road authority for the necessary work. As soon as the  
2113 plans are submitted the Commissioner or representative of the public road authority shall review the  
2114 same and after determining the plans are satisfactory, shall notify the railroad to begin construction by a  
2115 specified date and to complete such construction within a specified time limit after considering public  
2116 safety, convenience and necessity and the amount, nature and extent of the planned construction. All  
2117 costs of necessary work, including formulation of plans, where upgrading is not necessary, shall be  
2118 borne by the company. In the event there is a disagreement as to the design, method of construction and  
2119 date of completion, such dispute shall be resolved under the procedural provisions of § 56-366.1.

2120 If the ~~Commissioner~~ *Chief Executive Officer for Transportation* or public road authority determines  
2121 that upgrading is necessary or desirable, the same procedure for coordination with the company shall  
2122 apply except that the parties may agree that the ~~Commissioner~~ *Chief Executive Officer for*  
2123 *Transportation* or representative of the public road authority formulate, and execute plans for such work,  
2124 in consultation with such company. Disputes as to matters in this regard, including allocation of cost,  
2125 shall also be resolved by petition to the State Corporation Commission and any new overpass shall be  
2126 maintained in accordance with § 56-368.1.

2127 When it is necessary only to repair any overpass, maintained by such railroad, the railroad shall  
2128 perform all work and bear all costs in connection therewith.

2129 All duties under this section shall be performed as expeditiously as possible. Nothing herein shall be  
2130 construed in any way to limit the authority of the ~~Commissioner~~ *Chief Executive Officer for*  
2131 *Transportation* or representative of the public road authority over public highways and overpasses.

2132 § 56-369. Elimination of public grade crossings by change of alignment of public highways or  
2133 construction of replacement public highways.

2134 Whenever the ~~Commonwealth~~ *Chief Executive Officer for Transportation Commissioner* or the  
2135 appropriate public road authority in improving the alignment of public highways proposes to change the  
2136 alignment of the highway or construct a replacement public highway and thereby permanently eliminate  
2137 as a public crossing one or more crossings of a railroad at grade, he may agree with the railroad  
2138 company involved, on such terms and conditions as he or the representative of the public road authority  
2139 shall deem in the best interest of the Commonwealth or locality regarding the plans and specifications,  
2140 the method and manner of construction and the division of costs of so changing the alignment of the  
2141 highway. Grade crossings shall be closed when replaced by a new public highway. However, the  
2142 Commonwealth Transportation Board or the public road authority may authorize the continued use of  
2143 the crossing for a period of two years following the construction of the new public highway to  
2144 familiarize the public with the new route.

2145 In the event the ~~Commonwealth~~ *Chief Executive Officer for Transportation Commissioner* or the  
2146 public road authority and the railroad company are unable to agree (i) on the necessity for such change  
2147 in the alignment of the highway, or (ii) the plans and specifications for the method and manner of  
2148 construction thereof, or (iii) the portion of the work, if any, to be done and the share of the cost of such  
2149 project, if any, to be borne by the railroad company involved, the ~~Commonwealth~~ *Chief Executive*

2150 *Officer for Transportation Commissioner* or the public road authority shall petition the State Corporation  
 2151 Commission setting forth the plans and specifications for the method and manner of changing the  
 2152 alignment of the public highway and the facts which, in his opinion, justify the proposed elimination as  
 2153 a public crossing of one or more crossings of the railroad at grade. Copies of the petition and the plans  
 2154 and specifications shall forthwith be served by the State Corporation Commission on the railroad  
 2155 company involved. Within twenty days after service on it of such petition and plans and specifications,  
 2156 the railroad company involved shall file an answer with the State Corporation Commission setting out  
 2157 its objections to the proposed project and the Commission shall hear and determine the matter as other  
 2158 matters are heard and determined by that body. The Commission shall consider all the facts and  
 2159 circumstances surrounding the case and shall determine (a) whether public necessity and convenience  
 2160 justifies or requires the proposed change in the alignment of the highway which shall not, in respect to  
 2161 any particular project within the meaning of this section, exceed five miles in length, (b) whether the  
 2162 plans and specifications or method and manner of construction are proper and appropriate, and (c) what  
 2163 portion of the work, if any, to be done and what share of the cost of such project, if any, to be borne  
 2164 by the railroad company involved is fair and reasonable, having regard to the benefits, if any, accruing  
 2165 to such railroad from the elimination of such grade crossing or crossings, and either dismiss the  
 2166 proceeding as against the railroad company involved or enter an order deciding and disposing of all of  
 2167 the matters hereinbefore submitted to its jurisdiction, provided, however, that the share of the cost of  
 2168 such project which the Commission may find proper to be borne by the railroad under the provisions of  
 2169 this section, shall not exceed what the Commission might otherwise decide would be the proportion of  
 2170 the cost of constructing an overpass or underpass structure or structures at the point or points where  
 2171 such public grade crossing or crossings are to be eliminated.

2172 § 56-405. Railroad companies to maintain grade crossings of public highways and approaches; repair  
 2173 by Chief Executive Officer for Transportation or public road authority; recovery of cost from railroad  
 2174 company.

2175 At every crossing, now existing or hereafter established, of a public road by a railroad or of a  
 2176 railroad by a public highway at grade, it shall be the duty of the railroad company to keep such crossing  
 2177 in good repair to the full width of the public highway, and to maintain such crossing in a smooth  
 2178 condition so as to admit of reasonable and safe travel over the same, and it shall also be the duty of the  
 2179 railroad company to maintain and keep in good repair that portion of the highway located between  
 2180 points two feet on either side of the extreme rails. A railroad may request that a public highway be  
 2181 closed for grade crossing maintenance activities, and the representative of the ~~Commonwealth~~ *Chief*  
 2182 *Executive Officer for Transportation Commissioner* or the representative of the appropriate public road  
 2183 authority may approve such closing where a reasonable detour is available. Any railroad company  
 2184 violating the provisions of this section shall be deemed guilty of a misdemeanor and, upon conviction,  
 2185 shall be fined not less than \$10 nor more than \$500.

2186 The ~~Commonwealth~~ *Chief Executive Officer for Transportation Commissioner* or the representative of  
 2187 the public road authority, whenever he or it shall ascertain that any such crossing is not being properly  
 2188 maintained, shall notify the railroad company involved in writing to repair the crossing forthwith; the  
 2189 railroad company upon receipt of notice may request a conference on the condition of the crossing and  
 2190 the need, if any, for the repair of such crossing and such conference shall be held within ~~thirty~~30 days  
 2191 after receipt of the ~~Commissioner's~~ *Chief Executive Officer for Transportation's* or the public road  
 2192 authority's notice. After the conference if the ~~Commissioner~~ *Chief Executive Officer for Transportation*  
 2193 or the public road authority is of the opinion that such repairs are required and the railroad is not  
 2194 willing to proceed promptly with such repairs, he or the public road authority may repair the same or  
 2195 cause it to be repaired and recover from the railroad company the actual cost of such work including  
 2196 any administration and engineering cost.

2197 If no conference is requested by the railroad company within the ~~thirty~~30-day period, the  
 2198 ~~Commissioner~~ *Chief Executive Officer for Transportation* or the public road authority with advance  
 2199 notice may repair the crossing or cause it to be repaired and recover from the railroad company the  
 2200 actual cost of such work including any administration and engineering cost.

2201 In any action under this section to recover the cost of the repair of any such crossing, the need for,  
 2202 and reasonableness of, the repairs may be put in issue.

2203 Nothing herein shall be construed as placing a duty on the railroad company to construct or  
 2204 reconstruct any such crossing in the event any such crossing is relocated or the highway approaches  
 2205 thereto are widened or reconstructed.

2206 § 56-405.1. Agreements with Chief Executive Officer for Transportation or public road authority  
 2207 representative for maintenance and repair of public grade crossings.

2208 Whenever the ~~Commonwealth~~ *Chief Executive Officer for Transportation Commissioner* or  
 2209 representative of the appropriate public road authority determines that it is in the best interest of the  
 2210 public to assist a railroad in its grade crossing maintenance and repair activities, he is authorized to  
 2211 enter into an agreement with the railroad company for the repair or maintenance of any crossing of a

2212 railroad and a public highway or for the sale of materials to the railroad company for the repair and  
 2213 maintenance of any such crossing. Any such agreement shall provide for the railroad company to bear  
 2214 the cost of the repair or maintenance or material furnished and such other conditions as the  
 2215 Commonwealth Chief Executive Officer for Transportation Commissioner or representative of the  
 2216 appropriate public road authority deems necessary or advisable to protect the interest of the public.

2217 § 56-405.2. Construction and maintenance of crossbucks.

2218 Every railroad company shall cause signal boards, hereinafter referred to as crossbucks, well  
 2219 supported by posts or otherwise and approved by the Department of Transportation at such heights as to  
 2220 be easily seen by travelers from both directions of the public highway, and not obstructing travel,  
 2221 containing in capital letters, at least five inches high, the inscription "railroad crossing," to be placed,  
 2222 and constantly maintained, at each public highway at or near, and on both sides of, each place where it  
 2223 is crossed by the railroad at the same level. The requirements of this section in localities that maintain  
 2224 their own streets may be waived at specific crossings on the petition of any such company to both the  
 2225 Commonwealth Chief Executive Officer for Transportation Commissioner and the public road authority if  
 2226 both the Commissioner Chief Executive Officer for Transportation and the public road authority  
 2227 determine that any such crossing has or will have other adequate warning devices or that the placement  
 2228 of new crossbucks will not enhance the safety of the traveling public. Neither official action nor failure  
 2229 to act as hereinabove provided shall impair the power of the Commissioner Chief Executive Officer for  
 2230 Transportation or the public road authority to require crossbucks at specific public crossings should a  
 2231 subsequent determination of their need be made.

2232 The cost of erecting crossbucks placed at a public highway for the first time or whenever the  
 2233 Commissioner Chief Executive Officer for Transportation or the public road authority determines an  
 2234 upgrade of the standards is required may be paid or supplemented from federal funds when available to  
 2235 the Department of Transportation for such purpose at the sole discretion of the Commonwealth Chief  
 2236 Executive Officer for Transportation Commissioner. But the election of the Commissioner Chief  
 2237 Executive Officer for Transportation not to participate in such cost shall not relieve any company from  
 2238 the obligation of this section.

2239 This section shall apply as to cities and towns in the case of new crossbucks beginning July 1, 1977.

2240 § 56-406.1. Proceedings for installation and maintenance of automatically operated gates, signals and  
 2241 other automatic crossing warning devices.

2242 Railroads shall cooperate with the Virginia Department of Transportation and the Department of Rail  
 2243 and Public Transportation in furnishing information and technical assistance to enable the  
 2244 Commonwealth to develop plans and project priorities for the elimination of hazardous conditions at any  
 2245 crossing of a public highway which crosses at grade including, but not limited to, grade crossing  
 2246 elimination, reconstruction of existing grade crossings, and grade crossing improvements. The  
 2247 Commonwealth shall provide each locality a listing of grade crossing safety needs for its consideration.  
 2248 Information collected and analyses undertaken by the designated state agencies are subject to 23 U.S.C.  
 2249 § 409. A railroad shall not unilaterally select or determine the type of grade crossing warning system to  
 2250 be installed at any crossing of a public highway and railroad at grade. The railroad shall only install or  
 2251 upgrade a grade crossing warning system at any crossing of a public highway and railroad at grade  
 2252 pursuant to an agreement with the Virginia Department of Transportation or representative of the  
 2253 appropriate public road authority authorized to enter into such agreements. A railroad is not required but  
 2254 is permitted to upgrade, at its own expense, components of any public highway at grade warning system  
 2255 when such upgrade is incidental to a railroad improvement project relating to track, structures or train  
 2256 control systems.

2257 When required by the Commonwealth Chief Executive Officer for Transportation Commissioner or  
 2258 representative of the appropriate public road authority, every railroad company shall cause a grade  
 2259 crossing warning device including flashing lights approved by the Department of Transportation at such  
 2260 heights as to be easily seen by travelers, and not obstructing travel, to be placed, and maintained at each  
 2261 public highway at or near each place where it is crossed by the railroad at the same level. Such warning  
 2262 device shall be automatically activated by the approaching train so as to be clearly discernible to  
 2263 travelers approaching the railroad crossing from each direction at a distance of ~~two hundred~~ 200 feet.  
 2264 Such warning devices shall be erected at the initiative of the appropriate public road authority only  
 2265 when required by ordinance or resolution adopted by the Commissioner or the appropriate public road  
 2266 authority thereof stating that such political subdivision will pay the full initial installation cost of such  
 2267 warning devices and that maintenance costs will be fixed as provided in § 56-406.2. A certified copy of  
 2268 such ordinance or resolution shall be delivered to such railroad company, and such railroad company  
 2269 shall forthwith install such warning devices at the full initial cost of such public road authority. The cost  
 2270 of such installation and maintenance of such warning devices may be shared by agreement between such  
 2271 railroad company and the Commonwealth Chief Executive Officer for Transportation Commissioner or the  
 2272 appropriate public road authority, when initiating such installation. The railroad shall be responsible for

2273 the continuing maintenance of the warning devices.

2274 In the event that such ~~Commissioner~~ *Chief Executive Officer for Transportation* or representative of  
 2275 the appropriate public road authority and the railroad company or companies involved are unable to  
 2276 agree on (i) the necessity for such grade crossing warning device, or (ii) the plans and specifications for  
 2277 and the method and manner of construction or operation thereof, or (iii) the share of the cost of  
 2278 construction, if any, to be borne by the railroad company or companies involved, then the  
 2279 ~~Commonwealth~~ *Chief Executive Officer for Transportation* ~~Commissioner~~ or representative of the  
 2280 appropriate public road authority, as the case may be, shall petition the State Corporation Commission  
 2281 setting forth the grade crossing warning devices desired and the plans and specifications for and the  
 2282 method and manner of construction and operation of the devices desired and the facts which, in the  
 2283 opinion of the petitioner, justify the requiring of the same. Copies of the petition and plans and  
 2284 specifications shall be forthwith served by the State Corporation Commission on the railroad company or  
 2285 companies involved. Within ~~twenty~~20 days after service on it of such petition and plans and  
 2286 specifications, each such railroad company shall file an answer with the State Corporation Commission  
 2287 setting out its objections to the proposed project, and the Commission shall hear and determine the  
 2288 matter as other matters are heard and determined by that body. The Commission shall consider all the  
 2289 facts and circumstances surrounding the case and shall determine (a) whether public necessity justifies or  
 2290 requires the proposed warning devices, (b) whether the plans and specifications or the method and  
 2291 manner of construction and operation be proper and appropriate, and (c) what share of the cost of the  
 2292 project, if any, to be borne by any railroad company involved is fair and reasonable, having regard to  
 2293 the benefits, if any, accruing to such railroad company from providing such grade crossing warning  
 2294 devices, and either dismiss the proceeding as against such railroad company or enter an order deciding  
 2295 and disposing of all of the matters hereinbefore submitted to its jurisdiction.

2296 § 56-406.2. Proceeding for fixing cost of maintaining such warning devices at public grade crossings.

2297 Whenever any automatically operated gate, signal or other automatic crossing warning device has  
 2298 been or may hereafter be installed at any highway, road or street grade crossing by any railroad  
 2299 company, the ~~Commonwealth~~ *Chief Executive Officer for Transportation* ~~Commissioner~~ or the public  
 2300 road authority may agree with the railroad company involved as to the division of the cost of the future  
 2301 maintenance of any such device or devices. The basis for the division of costs shall be determined by  
 2302 the Department of Rail and Public Transportation utilizing the calculated average maintenance cost of all  
 2303 previous warning device maintenance performed and documented by all railroads operating in Virginia.  
 2304 In the event that the Commissioner or the public road authority and the railroad company involved are  
 2305 unable to agree upon the share of the cost of maintenance of any such device or devices to be borne by  
 2306 the railroad company, if any, then such railroad company may file a petition with the State Corporation  
 2307 Commission setting forth the crossing protection provided at such crossing, the terms of the contract  
 2308 and/or the conditions of the order of said Commission or the public road authority under which it was  
 2309 constructed and installed and the estimated future annual cost of maintaining the same. Copies of such  
 2310 petition shall forthwith be served by the State Corporation Commission upon the ~~Commonwealth~~ *Chief*  
 2311 *Executive Officer for Transportation* ~~Commissioner~~ or the public road authority who shall, within  
 2312 ~~twenty~~20 days after service of such petition, file an answer thereto setting out reasons for declining to  
 2313 participate in the future cost of maintaining such warning device or devices as requested by the railroad  
 2314 company, and the Commission shall thereupon hear and determine the matter as other matters are heard  
 2315 and determined by that body. The Commission shall consider all the facts and circumstances  
 2316 surrounding the case and shall determine what share of the cost of the future maintenance of such  
 2317 warning device or devices, if any, shall be borne by the railroad company and/or the Commonwealth  
 2318 Transportation Board or the public road authority, having regard to the benefits, if any, accruing to such  
 2319 railroad company from the continued maintenance of such protection of said public highway, road or  
 2320 street grade crossing, and either dismiss the proceeding or enter an order deciding and disposing of the  
 2321 matters therein submitted to its jurisdiction.

2322 § 56-458.1. Relocation of lines or works of certain public utilities acquired by Commonwealth  
 2323 Transportation Board.

2324 Whenever a telegraph or telephone company, or any company mentioned in Chapter 10 (§ 56-232 et  
 2325 seq.) of this title, shall be required by the Commonwealth Transportation Board, or the ~~Commonwealth~~  
 2326 *Chief Executive Officer for Transportation* ~~Commissioner~~, to remove any part of its lines or works off of  
 2327 the right-of-way of a road now or hereafter included in either state highway system, or if any  
 2328 right-of-way, property or interest therein used and occupied by such company with its lines or works, or  
 2329 part thereof, is acquired by the Commonwealth Transportation Board, or the ~~Commonwealth~~ *Chief*  
 2330 *Executive Officer for Transportation* ~~Commissioner~~, for the uses of either such highway system, or if  
 2331 such company is notified by such Board or ~~Commissioner~~ *Chief Executive Officer for Transportation* of  
 2332 the desire of such Board or ~~Commissioner~~ *Chief Executive Officer for Transportation* to acquire such  
 2333 right-of-way, property, or interest therein, used and occupied by such company with its lines or works,  
 2334 or part thereof, for the uses of either such highway system, such company may relocate its lines or

2335 works, or the part or parts thereof affected. If unable to agree with the owner or owners for the  
2336 right-of-way, or property, or interest therein for such relocation, such company, in addition to its other  
2337 powers, shall have the right to acquire such rights-of-way, or property, or interest therein for the purpose  
2338 of such relocation of its lines or works, or part or parts thereof in the manner provided by the laws of  
2339 this Commonwealth for the exercise of the right of eminent domain.

2340 § 56-573.1. Procurement.

2341 The Virginia Public Procurement Act (§ 2.2-4300 et seq.) shall not apply to this chapter; however, a  
2342 responsible public entity may enter into an interim or a comprehensive agreement only in accordance  
2343 with guidelines adopted by it as follows:

2344 1. A responsible public entity may enter into an interim or a comprehensive agreement in accordance  
2345 with guidelines adopted by it that are consistent with procurement through "competitive sealed bidding"  
2346 as defined in § 2.2-4301 and subsection B of § 2.2-4310.

2347 2. A responsible public entity may enter into an interim or a comprehensive agreement in accordance  
2348 with guidelines adopted by it that are consistent with the procurement of "other than professional  
2349 services" through competitive negotiation as defined in § 2.2-4301 and subsection B of § 2.2-4310. Such  
2350 responsible public entity shall not be required to select the proposal with the lowest price offer, but may  
2351 consider price as one factor in evaluating the proposals received. Other factors that may be considered  
2352 include (i) the proposed cost of the qualifying transportation facility; (ii) the general reputation,  
2353 qualifications, industry experience, and financial capacity of the private entity; (iii) the proposed design,  
2354 operation, and feasibility of the qualifying transportation facility; (iv) the eligibility of the facility for  
2355 priority selection, review, and documentation timelines under the responsible public entity's guidelines;  
2356 (v) local citizen and public entity comments; (vi) benefits to the public; (vii) the private entity's  
2357 compliance with a minority business enterprise participation plan or good faith effort to comply with the  
2358 goals of such plan; (viii) the private entity's plans to employ local contractors and residents; (ix) the  
2359 safety record of the private entity; (x) the ability of the facility to address the needs identified in the  
2360 appropriate state, regional or local transportation plan by improving safety, reducing congestion,  
2361 increasing capacity, and/or enhancing economic efficiency; and (xi) other criteria that the responsible  
2362 public entity deems appropriate.

2363 A responsible public entity shall proceed in accordance with the guidelines adopted by it pursuant to  
2364 subdivision 1 unless it determines that proceeding in accordance with the guidelines adopted by it  
2365 pursuant to this subdivision is likely to be advantageous to the responsible public entity and the public,  
2366 based on (i) the probable scope, complexity, or urgency of a project; (ii) risk sharing including  
2367 guaranteed cost or completion guarantees, added value, or debt or equity investments proposed by the  
2368 private entity; or (iii) an increase in funding, dedicated revenue source or other economic benefit that  
2369 would not otherwise be available. When the responsible public entity determines to proceed according to  
2370 the guidelines adopted by it pursuant to this subdivision, it shall state the reasons for its determination in  
2371 writing. If a state agency is the responsible public entity, the approval of the ~~Secretary of~~ *Chief Executive*  
2372 *Officer for* Transportation shall be required as more specifically set forth in the guidelines before the  
2373 comprehensive agreement is signed.

2374 3. Interim or comprehensive agreements for maintenance or asset management services for a  
2375 transportation facility that is a highway, bridge, tunnel, or overpass, and any amendment or change order  
2376 thereto that increases the highway lane-miles receiving services under such an agreement, shall be  
2377 procured in accordance with guidelines that are consistent with procurement through "competitive sealed  
2378 bidding" as defined in § 2.2-4301 and subsection B of § 2.2-4310. Furthermore, such contracts shall be  
2379 of a size and scope to encourage maximum competition and participation by agency prequalified  
2380 contractors and otherwise qualified contractors.

2381 4. The provisions of subdivision 3 shall not apply to maintenance or asset management services  
2382 agreed to as part of the initial provisions of any interim or comprehensive agreement entered into for the  
2383 original construction, reconstruction, or improvement of any highway pursuant to Chapter 22 (§ 56-556  
2384 et seq.) of Title 56 and shall not apply to any concession that, at a minimum, provides for (i) the  
2385 construction, reconstruction, or improvement of any transportation facility or (ii) the operation and  
2386 maintenance of any transportation facility with existing toll facilities.

2387 5. Nothing in this section shall require that professional services be procured by any method other  
2388 than competitive negotiation in accordance with the Virginia Public Procurement Act (§ 2.2-4300 et  
2389 seq.).

2390 § 63.2-611. Case management; support services; transitional support services.

2391 A. The Commissioner, through the local departments, with such funds as appropriated, shall offer  
2392 families participating in VIEW intensive case management services throughout the family's participation  
2393 in VIEW. Case management services shall include initial assessment of the full range of services that  
2394 will be needed by each family including testing and evaluation, development of the individualized  
2395 agreement of personal responsibility, and periodic reassessment of service needs and the agreement of

2396 personal responsibility. It shall be the goal of the Department to have a statewide intensive case  
2397 management ratio not higher than the statewide average ratio in Title IV-F of the Social Security Act  
2398 Job Opportunities and Basic Skills Training Program State Plan as the ratio existed on July 1, 1995.

2399 B. Local departments are authorized to provide services to VIEW families throughout the family's  
2400 participation in VIEW subject to regulations adopted by the Board, including:

2401 1. Child care for the children of participants if:

2402 a. The participant is employed and child-care services are required to enable the continued  
2403 employment of the participant;

2404 b. Child-care services are required to enable a participant to receive job placement, job training or  
2405 education services; or

2406 c. The participant is otherwise eligible for child care pursuant to Board regulations.

2407 2. Transportation that will enable parental employment or participation in services required by the  
2408 agreement of personal responsibility.

2409 3. Job counseling, education and training, and job search assistance consistent with the purposes of  
2410 VIEW.

2411 4. Medical assistance.

2412 C. A participant whose TANF financial assistance is terminated, either voluntarily or involuntarily,  
2413 shall receive the following services for up to twelve months after termination, if needed:

2414 1. Assistance with child care if such assistance enables the individual to work;

2415 2. Assistance with transportation, if such transportation enables the individual to work;

2416 3. Medical assistance, including transitional medical assistance for families with a working parent  
2417 who becomes ineligible for TANF financial assistance because of increased earnings according to  
2418 policies of the Virginia Department of Medical Assistance Services; and

2419 4. Financial assistance of \$50 per month, if the participant is employed and is working at least 30  
2420 hours per week or more at the time of TANF closure and remains employed and continues to work at  
2421 least 30 hours per week or more.

2422 D. The Department or local departments may purchase or otherwise acquire motor vehicles from the  
2423 centralized fleet of motor vehicles controlled by the ~~Commonwealth Transportation Commissioner~~  
2424 *Department of General Services* under Article 7 (§ 2.2-1173 et seq.) of Chapter 11 of Title 2.2 and sell  
2425 or otherwise transfer such vehicles to TANF recipients or former recipients. Purchases, sales, and other  
2426 transfers of vehicles under this subsection shall not be subject to the provisions of the Virginia Public  
2427 Procurement Act (§ 2.2-4300 et seq.), or the provisions of §§ 2.2-1124, 2.2-1153, 2.2-1156, and  
2428 2.2-1177 relating to the sale, purchase, and transfer of surplus motor vehicles and other surplus state  
2429 property.

2430 E. Nothing in this section shall be construed or interpreted to create a cause of action or  
2431 administrative claim based upon a right or entitlement to any specific services or an exemption or  
2432 waiver from any provision of VIEW.

2433 **2. That it is the intent of the General Assembly, through the provisions of this act, to transfer all**  
2434 **powers, duties, and responsibilities vested by any provision of the Code of Virginia in the**  
2435 **Commonwealth Transportation Commissioner to the Chief Executive Officer for Transportation,**  
2436 **who shall also serve and have all the powers, duties, and responsibilities of the Director of the**  
2437 **Department of Aviation and the Director of the Department of Rail and Public Transportation.**  
2438 **The term of office of persons occupying the position of Director of the Department of Aviation**  
2439 **and the Director of the Department of Rail and Public Transportation prior to the effective date**  
2440 **of this act shall expire on July 1, 2009. The Chief Executive Officer for Transportation shall have**  
2441 **plenary powers to effect, to the greatest extent feasible, consolidation of operations, programs, and**  
2442 **responsibilities into a single administrative entity. The Chief Executive Officer for Transportation**  
2443 **shall be solely responsible and accountable to the Commonwealth Transportation Board, and the**  
2444 **office of Secretary of Transportation is hereby abolished.**

2445 **3. That the changes in composition of the Commonwealth Transportation Board shall not affect**  
2446 **any member appointed to that body by the Governor prior to July 1, 2009. Those appointed prior**  
2447 **to that date shall continue to serve until the end of the term to which they were appointed.**  
2448 **Thereafter, their successors shall be chosen as provided in the amendments to § 33.1-1 of the Code**  
2449 **of Virginia in the first enactment of this act.**

2450 **4. That the Chief Executive Officer for Transportation shall make such legislative**  
2451 **recommendations as he may deem necessary and proper to the 2010 Regular Session of the**  
2452 **General Assembly to improve consolidation of the functions of the Department of Transportation,**  
2453 **the Department of Rail and Public Transportation, and the Department of Aviation.**

2454 **5. That Article 10 (§§ 2.2-228 and 2.2-229) of Chapter 2 of Title 2.2 of the Code of Virginia and**  
2455 **§ 5.1-2.3 of the Code of Virginia are repealed.**