

§ 33.1-41.1

Payments to cities and certain towns for maintenance of certain highways

The Commonwealth Transportation Commissioner, subject to the approval of the Commonwealth Transportation Board, shall make payments for maintenance, construction or reconstruction of highways, as hereinafter provided, to: (i) all incorporated towns having more than 3,500 inhabitants according to the last preceding United States census; (ii) all incorporated towns which, according to evidence satisfactory to the Commonwealth Transportation Board, have attained a population of more than 3,500 since the last preceding United States census; (iii) all incorporated towns which, on June 30, 1985, maintained certain streets under § 33.1-80 as then in effect; (iv) all cities operating under charters designating them as cities, regardless of their populations; and (v) the Town of Wise, the Town of Lebanon, and the Town of Blackstone. Such payments, however, shall only be made if those highways functionally classified as principal and minor arterial roads are maintained to a standard satisfactory to the Department of Transportation.

No payments shall be made by the Commissioner to any such city or town unless the portion of the highway for which such payment is made either (a) has (i) an unrestricted right-of-way at least fifty feet wide and (ii) a hard-surface width of at least thirty feet; or (b) has (i) an unrestricted right-of-way at least eighty feet wide, (ii) a hard-surface width of at least twenty-four feet, and (iii) approved engineering plans for the ultimate construction of an additional hard-surface width of at least twenty-four feet within the same right-of-way; or (c) (i) is a cul-de-sac, (ii) has an unrestricted right-of-way at least forty feet wide, and (iii) has a turnaround that meets applicable standards set by the Department of Transportation; or (d) either (i) has been paved and has constituted part of the primary or secondary system of state highways prior to annexation or incorporation or (ii) has constituted part of the secondary system of state highways prior to annexation or incorporation and is paved to a minimum width of sixteen feet subsequent to such annexation or incorporation and with the further exception of streets

or portions thereof which have previously been maintained under the provisions of § 33.1-79 or § 33.1-82; or (e) was eligible for and receiving such payments under the laws of the Commonwealth in effect on June 30, 1985; or (f) is a street established prior to July 1, 1950, which has an unrestricted right-of-way width of not less than thirty feet and a hard-surface width of not less than sixteen feet; or (g) is a street functionally classified as a local street and constructed on or after January 1, 1996, which at the time of approval by the city or town met the criteria for pavement width and right-of-way of the then-current edition of the subdivision street requirements manual for secondary roads of the Department of Transportation (24 VAC 30-90-10 et seq.); (h) is a street previously eligible to receive street payments that is located in a city having a population of at least 200,000 but no more than 250,000 and is closed to public travel, pursuant to legislation enacted by the governing body of the city in which it is located, for public safety reasons, within the boundaries of a publicly funded housing development owned and operated by the local housing authority; or (i) is a local street, otherwise eligible, containing one or more physical protuberances placed within the right-of-way for the purpose of controlling the speed of traffic.

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

For the purpose of calculating allocations and making payments under this section, the Department shall divide affected highways into two categories, which shall be distinct from but based on functional classifications established by the Federal Highway Administration: (i) principal and minor arterial roads and (ii) collector roads and local streets. Payments to affected localities shall be based on the number of moving-lane-miles of highways or portions thereof available to peak-hour traffic in each category of highways in that locality. For the fiscal year 1986, payment to each city and town shall

be an amount equal to \$7,787 per moving-lane-mile for principal and minor arterials and \$4,572 per moving-lane-mile for collector roads and local streets.

The Department of Transportation shall establish a statewide maintenance index of the unit costs for labor, equipment, and materials used on roads and bridges in the fiscal year 1986, and use changes in that index to calculate and put into effect annual changes in the base per-lane-mile rate payable under this section.

The fund allocated by the Board shall be paid in equal sums in each quarter of the fiscal year, and no payment shall be made without the approval of the Board.

The city or town receiving this fund shall make annual reports, in such form as the Board may prescribe, accounting for all expenditures and certifying that none of the money received has been expended for other than maintenance, construction or reconstruction of the streets. Such reports shall be included in the scope of the annual audit of each municipality conducted by independent certified public accountants.

History

(1985, c. 42; 1991, c. 353; 1992, c. 267; 1994, c. 459; 1996, cc. 149, 821; 1997, c. 49; 1998, c. 441; 2000, c. 97.)

Annotations

Editor's note. - Acts 1992, c. 893, item 569, as amended by Acts 1993, c. 994, item 569, and Acts 1994, c. 966, item 609, as amended by Acts 1995, c. 853, provides: "Notwithstanding the provisions of §§ 33.1-41.1 and 33.1-23.5:1 of the Code of Virginia, the payment rates per lane mile for maintenance to cities and certain towns and counties not in the State secondary system for the first year shall be adjusted to reflect the 1991 maintenance cost index. For the second year the payment rates shall be adjusted to the 1995 maintenance cost index, as provided in the provisions of §§ 33.1-41.1 and 33.1-23.5:1, Code of Virginia."

The 1996 amendment by c. 149, effective March 8, 1996, in the first paragraph, inserted "construction or reconstruction" following "maintenance" in the first sentence and rewrote the second sentence which formerly read: "Such payments, however, shall only be made if, in the opinion of the Commonwealth Transportation Board, such highways are maintained in accordance with the applicable standards of the Commonwealth Transportation Board"; in the second paragraph, deleted "and" following

"eighty feet wide" in clause (b)(i), deleted "has" preceding "a hard-surface" in clause (b)(ii), deleted "there are" preceding "approved" in clause (b)(iii); deleted "and" following "cul-de-sac" in clause (c)(i), in clause (c)(iii), inserted "has" preceding "a turnaround" and substituted "set by the Department of Transportation" for "of the Commonwealth Transportation Board"; and rewrote the seventh paragraph which formerly read: "The city or town receiving this fund will be required to make quarterly reports, audited annually, in such form as the Board may prescribe, accounting for all expenditures and certifying that none of the money received has been expended for other than maintenance of the streets."

The 1996 amendment by c. 821, effective April 8, 1996, in the first paragraph, inserted "construction or reconstruction" following "for maintenance" in the first sentence, in the second sentence, substituted "shall only be made if those" for "shall only be made if, in the opinion of the Commonwealth Transportation Board, such," inserted "functionally classified as principal and minor arterial roads" following "highways," and substituted "to a standard satisfactory to the Department of Transportation" for "in accordance with the applicable standards of the Commonwealth Transportation Board"; in the second paragraph, deleted "and" at the end of clause (a)(i), deleted "has" preceding "a hard-surface" in clause (a)(ii), deleted "there are" preceding "approved engineering plans" in clause (a)(iii), in clause (c)(i), substituted "(i) is a" for "is (i) a" and deleted "and" following "cul-de-sac," in clause (c)(iii), inserted "has" preceding "a turnaround" and substituted "set by the Department of Transportation" for "of the Commonwealth Transportation Board," and in the final paragraph, in the first sentence, substituted "shall make annual reports in such form" for "will be required to make quarterly reports, audited annually, in such form" and added the last sentence.

The 1997 amendment, in the second paragraph, inserted "or" at the end of clause (f) and added clause (g).

The 1998 amendment, in the second paragraph, in the last sentence, added the language beginning "or (h) is a street" and ending "operated by the local housing authority."

The 2000 amendment by c. 97 added the language beginning "or (i) is a local street" at the end of the second paragraph and deleted "or" preceding (h) in that paragraph.