



**HAMPTON ROADS TRANSPORTATION
ACCOUNTABILITY COMMISSION
2015-2016 LEGISLATIVE AGENDA**

(Endorsed by HRTAC 11/19/15)

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REVISIONS TO ENABLING LEGISLATION: A. TRANSFER OF HRTF MONIES TO HRTAC

OVERVIEW:

Section 33.2-2600 of the enabling legislation of the Hampton Roads Transportation Accountability Commission (the “Commission” or “HRTAC”) currently contemplates that revenues dedicated to the Hampton Roads Transportation Fund (the “HRTF”) will be paid to the state treasury and credited to the HRTF, which is established on the books of the Comptroller. The statute is silent regarding how monies deposited in the HRTF subsequently will be transferred to the Commission for use in accordance with the enabling legislation.

In contrast, the enabling legislation of the Commission’s counterpart, the Northern Virginia Transportation Authority (the “NVTA”), clarifies that monies deposited in the corresponding Northern Virginia Transportation Authority Fund will be distributed by the state directly to the NVTA. The Commission desires similar clarity in its enabling legislation which, among other things, will benefit the Commission in its bond validation and bond issuance activities.

EXISTING STATUTORY LANGUAGE:

§ 33.2-2600 - “The amounts dedicated to the Fund shall be deposited monthly by the Comptroller into the Fund.”

SAMPLE REVISIONS:

§ 33.2-2600 - “The amounts dedicated to the Fund shall be deposited monthly by the Comptroller into the Fund and thereafter distributed to the Commission as soon as practicable for use in accordance with this Chapter. If the Commission determines that such moneys distributed to it exceed the amount required to meet the current needs and demands to fund transportation projects pursuant to this chapter, the Commission may invest such excess moneys in accordance with applicable law.”

REVISIONS TO ENABLING LEGISLATION: B. EXPANDED USE OF HRTF MONIES FOR ADMINISTRATIVE EXPENSES

OVERVIEW:

The Commission's enabling legislation is ambiguous regarding the use of HRTF monies for administrative expenses. There is language that places the burden of administrative expenses on the member jurisdictions unless funds are provided from other sources. The architects of the Commission's enabling legislation indicated that they intended the HRTF to constitute an "other source", and made a provisional clarification through the current biennial budget. The Commission desires a more long-term solution through amendments to the applicable statutes.

EXISTING STATUTORY LANGUAGE:

§ 33.2-2600 – "The moneys deposited in the Fund shall be used solely for new construction projects on new or existing highways, bridges, and tunnels in the localities comprising Planning District 23 as approved by the Hampton Roads Transportation Accountability Commission."

§ 33.2-2605(B) - "The administrative expenses of the Commission, as provided in an annual budget adopted by the Commission, to the extent funds for such expenses are not provided from other sources, shall be allocated among the component counties and cities on the basis of the relative population, as determined pursuant to § 33.2-2604. Such budget shall be limited solely to the administrative expenses of the Commission and shall not include any funds for construction or acquisition of transportation facilities or the performance of any transportation service."

SAMPLE REVISIONS:

§ 33.2-2600 – "The moneys deposited in the Fund shall be used solely for new construction projects on new or existing highways, bridges, and tunnels in the localities comprising Planning District 23 as approved by the Hampton Roads Transportation Accountability Commission and for such other purposes as are specified in subsection B of § 33.2-2605."

§ 33.2-2605(B) - "The administrative and operating expenses of the Commission, as provided in an annual budget adopted by the Commission, to the extent funds for such expenses are not provided from other sources, shall be ~~allocated among the component counties and cities on the basis of the relative population, as determined pursuant to §33.2-2604~~ paid from the Fund. Such budget shall be limited solely to the administrative and operating expenses of the Commission and shall not include any funds for construction or acquisition of transportation facilities or the performance of any transportation service."

REVISIONS TO ENABLING LEGISLATION: C. COMMISSION MEMBER “DESIGNEES”¹

OVERVIEW:

The Commission’s enabling legislation currently prohibits voting members from appointing designees to represent them at Commission meetings. Due to the Commission’s complex voting structure (including population requirements), the inability of members who are chief elected officers of counties and cities to attend meetings due to emergencies or other personal matters often leaves the Commission unable to take timely action, and/or leaves the counties and cities of those members unrepresented, on important matters.

The proposed revisions would allow members representing cities and counties to appoint “designees” to attend Commission meetings on their behalf. Specifically, the proposed language requires the designee to be an elected official of the applicable city or county, only allows the Commission member to appoint a designee in an emergency or personal matter, and limits the frequency of appointment. This approach is similar to the electronic participation guidelines under the Virginia Freedom of Information Act. It is also noteworthy that the NVTAs enabling legislation is less restrictive than the proposal below, generally allowing for designees provided they are current elected officers of the applicable jurisdiction.

EXISTING STATUTORY LANGUAGE:

§ 33.2-2602(1) - “The Commission shall consist of 23 members as follows:

1. The chief elected officer of the governing body of each of the 14 counties and cities embraced by the Commission;”

SAMPLE REVISIONS:

§ 33.2-2602(1) - “The Commission shall consist of 23 members as follows:

1. The chief elected officer of the governing body of each of the 14 counties and cities embraced by the Commission;

Members who are also chief elected officers and who are unable to attend a Commission meeting due to an emergency or personal matter may appoint a designee to attend the meeting and act on his or her behalf, provided (i) on or before the day of the meeting, the member notifies the chairman of the Commission that he or she is unable to attend the meeting and of the identity of his or her designee, (ii) the appointment of a designee by such member shall be limited each calendar year to two Commission meetings or 25 percent of the

¹ Additional amendments may be necessary if there are changes related to county representation under Section 33.2-2602.

Commission's meetings, whichever is fewer, and (iii) the designee is also a current elected official serving on the same governing body as the appointing member."

REVISIONS TO ENABLING LEGISLATION: D. CONTINUITY IN REPRESENTATION OF COUNTIES²

OVERVIEW:

Section 33.2-2602 of the Commission’s enabling legislation outlines the membership of the Commission, which includes, among others, representatives from the 14 counties and cities embraced by the Commission. The statute currently contemplates that the “chief elected officer of the governing body” will represent each jurisdiction, which means the respective Mayors represent each city and the respective Chairs of the Boards of Supervisors represent each county. While Mayors serve multi-year terms, Chairs of the Boards of Supervisors generally serve much shorter (often 1-year) terms. This disparity makes it difficult for counties to have continuity in representation that is similar to that of the cities.

The Commission proposes that while Mayors continue to represent their member cities, member counties may appoint any elected member of its Board of Supervisors to serve as its representative to the Commission.

EXISTING STATUTORY LANGUAGE:

§ 33.2-2602 – “The Commission shall consist of 23 members as follows:

1. The chief elected officer of the governing body of each of the 14 counties and cities embraced by the Commission;”

§ 33.2-2604 - “A majority of the Commission, which majority shall include at least a majority of the chief elected officers of the counties and cities embraced by the Commission, shall constitute a quorum. Decisions of the Commission shall require a quorum and shall be in accordance with voting procedures established by the Commission. In all cases, decisions of the Commission shall require the affirmative vote of two-thirds of the members of the Commission present and voting, and two-thirds of the chief elected officers of the counties and cities embraced by Planning District 23 who are present and voting and whose counties and cities include at least two-thirds of the population embraced by the Commission; however, no motion to fund a specific facility or service shall fail because of this population criterion if such facility or service is not located or to be located or provided or to be provided within the county or city whose chief elected officer’s sole negative vote caused the facility or service to fail to meet the population criterion. . . .”

SAMPLE REVISIONS:

§ 33.2-2602 – “The Commission shall consist of 23 members as follows:

² Additional amendments may be necessary if there are changes related to use of designees under § 33.2-2602(1).

1. The chief elected officer of the governing body of each of the ~~14 counties and 10~~ cities embraced by the Commission;

2. A current elected official of each of the 4 counties embraced by the Commission, provided that such official (a) serves on the governing body of the county, and (b) has been appointed by resolution of that governing body to serve as the county's member on the Commission;"

§ 33.2-2604 - "A majority of the Commission, which majority shall include at least a majority of the chief elected officers ~~of and elected officials who, pursuant to § 33.2-2602, represent~~ the counties and cities embraced by the Commission shall constitute a quorum. Decisions of the Commission shall require a quorum and shall be in accordance with voting procedures established by the Commission. In all cases, decisions of the Commission shall require the affirmative vote of two-thirds of the members of the Commission present and voting, and two-thirds of the chief elected officers ~~of and elected officials who, pursuant to § 33.2-2602, represent~~ the counties and cities embraced by Planning District 23 who are present and voting and whose counties and cities include at least two-thirds of the population embraced by the Commission; however, no motion to fund a specific facility or service shall fail because of this population criterion if such facility or service is not located or to be located or provided or to be provided within the county or city whose appointed elected official's or chief elected officer's sole negative vote caused the facility or service to fail to meet the population criterion. . . ."

REVISIONS TO ENABLING LEGISLATION: E. SYSTEM-WIDE FINANCING APPROACH

OVERVIEW:

Section 33.2-2607 of the enabling legislation of HRTAC should be revised to clarify that HRTAC may utilize a system-wide financing approach whereby HRTAC could fix and adjust the amount of tolls on any facilities within the network of highways, bridges and tunnels constructed or improved by HRTAC in Planning District 23 so that, together with other HRTAC-controlled revenues, they yield an amount that will cover costs of financing a variety of projects that improve overall traffic flow through the network. HRTAC's consultants have advised that such a system-wide approach may be vital to financing all contemplated projects within a reasonable timeframe.

EXISTING STATUTORY LANGUAGE:

§ 33.2-2607 – “Notwithstanding any contrary provision of this title and in accordance with all applicable federal statutes and requirements, the Commission shall control and operate and may impose and collect tolls in amounts established by the Commission for the use of any new or improved highway, bridge, or tunnel, to increase capacity on such facility or to address congestion within Planning District 23, constructed by the Commission (i) with federal, state, or local funds, (ii) solely with revenues of the Commission, or (iii) with revenues under the control of the Commission. The amount of any such toll may be varied from facility to facility, by lane, by congestion levels, by day of the week, by time of day, by type or size of vehicle, by number of axles, or by any similar combination thereof or any other factor the Commission may deem proper, and a reduced rate may be established for commuters as defined by the Commission. All such tolls shall be used for programs and projects that are reasonably related to or benefit the users of the new or improved highway, bridge, or tunnel, including, but not limited to, for the debt service and other costs of bonds whose proceeds are used for construction or improvement of such highway, bridge, or tunnel.

Any tolls imposed by the Commission shall be collected by an electronic toll system that, to the extent possible, shall not impede the traffic flow of the facility or prohibit a toll facility from retaining means of nonautomated toll collection in some lanes of the facility. For all facilities tolled by the Commission, there shall be signs erected prior to the point of toll collection that clearly state how the majority of the toll revenue is being spent by the Commission to benefit the users of the facility.”

SAMPLE REVISIONS:

§ 33.2-2607 – “Notwithstanding any contrary provision of this title and in accordance with all applicable federal statutes and requirements, the Commission shall control and operate and may impose and collect tolls in amounts established by the Commission for the use of any new or improved highway, bridge, or tunnel, to preserve, manage or increase capacity on such facility or to address congestion within Planning District 23, constructed or improved by the Commission (i) with federal, state, or local funds, (ii) solely with revenues of the Commission,

or (iii) with revenues under the control of the Commission. The amount of any such toll may be varied from facility to facility, by lane, by congestion levels, by day of the week, by time of day, by type or size of vehicle, by number of axles, or by any similar combination thereof or any other factor the Commission may deem proper, and a reduced rate may be established for commuters as defined by the Commission. All such tolls shall be used for programs and projects that are reasonably related to or benefit the users of the new or improved highway, bridge, ~~or and~~ tunnel; facilities, or network of facilities, constructed or improved by the Commission within Planning District 23, including, but not limited to, for the debt service and other costs of bonds whose proceeds are used for construction or improvement of such highway, bridge ~~or and~~ tunnel facilities.

Any tolls imposed by the Commission shall be collected by an electronic toll system that, to the extent possible, shall not impede the traffic flow of the facility or prohibit a toll facility from retaining means of nonautomated toll collection in some lanes of the facility. For all facilities tolled by the Commission, there shall be signs erected prior to the point of toll collection that clearly state how the majority of the toll revenue is being spent by the Commission to benefit the users of the facility facilities constructed or improved by the Commission.”