

**MEMORANDUM OF AGREEMENT BETWEEN
THE VIRGINIA DEPARTMENT OF TRANSPORTATION AND
THE HAMPTON ROADS TRANSPORTATION ACCOUNTABILITY COMMISSION**

WHEREAS, the 2013 Virginia General Assembly adopted and enacted into law House Bill 2313, 2013 Va. Acts Chapter 766 (“Chapter 766”); and

WHEREAS, Chapter 766 provides for imposition of certain state taxes in localities comprising planning districts that meet certain criteria as specified in the Act, and further provides that the revenues derived from taxes imposed in the localities comprising any such planning district be deposited in a special fund and used solely for transportation purposes and projects in the planning district; and

WHEREAS, Planning District 23 meets the criteria specified in §§ 58.1-603.1, 58.1-604.01, 58.1-604.1, 58.1-614 and 58.1-2295 of the Code of Virginia of 1950 (as amended) and the taxes specified in those sections shall be imposed in the localities comprising Planning District 23; and

WHEREAS, Chapter 766 establishes the Hampton Roads Transportation Fund (“HRTF”) and specifies that all revenues dedicated to the HRTF pursuant to § 58.1-638 and Chapter 22.1 of Title 58.1 (§§58.1-2291 et seq.) shall be paid into the state treasury, credited to the fund and the amounts so dedicated deposited monthly by the Comptroller (such amounts, together with interest earned thereon, are the “HRTAC Revenues”); and

WHEREAS, Chapter 678 of the 2014 Acts of Assembly (“Chapter 678”) establishes the Hampton Roads Transportation Accountability Commission (“HRTAC”); and

WHEREAS, Chapter 766, as amended by Chapter 678, provides among other things, that the moneys deposited in the HRTF 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 HRTAC (“HRTAC Projects”); and

WHEREAS, the HRTAC and the Virginia Department of Transportation (“VDOT”) have determined that it is desirable to work cooperatively in order to ensure the most effective and efficient development and construction of HRTAC Projects with revenues deposited into the HRTF and other state and federal transportation revenues; and

WHEREAS, the Virginia Department of Taxation bears responsibility for collecting and depositing into the HRTF all revenues associated with the additional sales tax(es) imposed in Planning District 23 by Chapter 766 in sections 58.1-603.1, 58.1-604.01, 58.1-604.1, 58.1-614; and the Virginia Department of Motor Vehicles bears responsibility for collecting and depositing into the HRTF all revenues associated with the additional motor fuels taxes imposed in Planning District 23 by Chapter 766 in section 58.1-2295 and VDOT shall bear no responsibility for collecting or depositing the tax revenues into the HRTF; and

WHEREAS, the Department of Treasury is responsible for the investment of the HRTAC Revenues it holds (and the administration of banking and cash management services relating thereto) pending transfer of those funds to HRTAC (and VDOT bears no responsibility for said banking and cash management services).

NOW THEREFORE, in connection with the foregoing premises, the Parties have deemed it necessary and prudent to identify their respective roles and responsibilities with regard to the HRTF, HRTAC Revenues, and HRTAC Projects by means of an agreement and, accordingly, do hereby agree as follows:

1. Use and Availability of Funds:

- a. The parties acknowledge that, as more specifically provided under applicable law (and without any intent or agreement to affect or expand the interpretation or application of that law), the HRTF Revenues that are deposited into the HRTF and available for use from time to time are subject to an appropriation by the General Assembly. Use of funds in the HRTF shall be consistent with applicable state and federal law.
- b. Nothing in this Agreement will be construed as charging or granting VDOT or any other state entity with authority over or responsibility for the HRTF not otherwise prescribed by state law.

2. VDOT's Role and Responsibilities:

- a. At the request of the HRTAC Personnel Committee, VDOT will assist, to the extent permitted, the HRTAC Personnel Committee in the search for, and recruitment of, HRTAC's initial executive director, including, if requested, serving as a liaison with the third party search firm.
- b. VDOT will assist HRTAC with such administrative and management assistance as the Chairman of HRTAC and the Commissioner may agree to from time to time (unless otherwise expressly agreed in writing, such arrangement shall be at-will and terminable by either party).
- c. Until such time as they are provided directly to HRTAC, VDOT will provide HRTAC with the Department of Taxation's estimates of the HRTF Revenues that will result from the state taxes imposed in planning District 23 pursuant to Chapter 766, as they are made available for public distribution.
- d. VDOT will provide HRTAC with monthly financial reports relating to the HRTF in a form similar to the example attached hereto as Exhibit A, and which will include the following information:
 - i. Income by revenue source as detailed by the collecting agency;
 - ii. Interest earnings; and

- iii. Administrative costs charged to the HRTF pursuant to applicable law by the Department of Taxation and other departments and agencies of the Commonwealth, if any; and
 - iv. The current cash position/balance in the HRTF, as well as forecasted cash position/balance.
- e. For Commonwealth budgeting purposes (and solely those purposes), the HRTAC Revenues are currently appropriated to VDOT; however, (i) VDOT has a pass-through role with respect to the HRTAC Revenues and shall effect monthly transfers to HRTAC of all HRTAC Revenues collected and deposited into the HRTF by the agencies responsible for collecting said taxes, and (ii) notwithstanding anything to the contrary set forth herein, VDOT hereby agrees that it (A) does not have any right, title or interest in the HRTAC Revenues, and (B) shall not withhold any sum for any administrative cost or any other purpose unless agreed to by HRTAC in writing or otherwise condition or delay the transfer of the HRTAC Revenues for any reason or in any manner. Funds collected and deposited into the HRTF during a month shall be transferred as promptly as practicable following the last day of such month, but no later than the 15th business day of the following month. If HRTAC notifies VDOT that HRTAC does not have an account prepared to accept monthly transfers, VDOT will work collaboratively with HRTAC to implement a method by which HRTAC may requisition payments from the HRTF on behalf of HRTAC, including payments to VDOT in respect of work on HRTAC Projects.
- f. From time to time, HRTAC may engage VDOT to administer and/or develop one or more HRTAC Projects. The parties shall work in good faith to develop a model Standard Project Agreement for Funding and Administration, which, upon mutual agreement of the parties, will be attached hereto as Exhibit B (the "Model SPA"). The Model SPA will be used as the template agreement for HRTAC Projects unless the Parties otherwise agree. VDOT and HRTAC shall perform their respective obligations under each applicable agreement in accordance with the terms of that agreement.
- g. VDOT will provide to the HRTAC a schedule by January 31st of each year, establishing the deadlines by which project information shall be submitted for inclusion into the draft and final SYIPs each year.
- h. At HRTAC's request, VDOT will work with HRTAC to have eligible HRTAC Projects considered for funding through the Commonwealth Transportation Board's Six-Year Improvement Program development process.
- i. VDOT acknowledges that HRTAC is empowered to issue bonds and other evidences of debt to carry out its purposes and that the continued appropriation of the HRTAC Revenues is expected to be the source and security for the payment of the debt service on such bonds and other debt.

- j. Each year and in accordance with the schedule of the Virginia Department of Planning and Budget, VDOT shall request that the Governor include in the budget to be delivered to the General Assembly during their next session a provision that there be appropriated all of the HRTAC Revenues to the HRTF during the next succeeding Fiscal Year or biennial period, as applicable.
- k. VDOT shall use its best efforts to have (a) the Governor include, in each biennial or any supplemental budget that is presented to the General Assembly, the appropriation of the HRTAC Revenues to the HRTF and (b) the General Assembly deposit, appropriate and reappropriate, as applicable, the HRTAC Revenues to the HRTF.
- l. VDOT shall notify HRTAC promptly upon becoming aware of any failure by the General Assembly to appropriate for the next succeeding Fiscal Year or biennial period, as applicable, all of the HRTAC Revenues to the HRTF.

3. HRTAC's Roles and Responsibilities:

- a. HRTAC will be responsible to approve HRTAC Projects in accordance with §33.2-2600 (effective October 1, 2014), as amended, a current copy of which is attached herein in Exhibit C.
- b. HRTAC shall produce annual reports reflecting all projects during the reporting period that were funded in whole or in part with moneys from the HRTF. Such annual reports shall include use of HRTF funds used for debt service on bonds issued and supported by HRTF revenues.
- c. HRTAC shall work with VDOT and the Hampton Roads Transportation Planning Organization to incorporate the HRTAC Projects into the applicable long-range transportation planning and transportation improvement programming processes and documents, including as applicable the financial constraint process, as required by applicable law and regulation.
- d. HRTAC will maintain documentation relating to the use of HRTAC Revenues and all other documentation as required by state and federal law.
- e. HRTAC will submit to VDOT the allocation information on HRTF Revenues for inclusion into the draft and final SYIPs during the annual update process by the deadlines established each year.

4. TERMINATION OF AGREEMENT:

This Agreement may be terminated by either Party upon ninety (90) days' prior written notice of the Party's intent to terminate.

5. SETTLEMENT OF DISPUTES:

Any disputes in connection with the Agreement not disposed of by mutual agreement between VDOT and HRTAC shall be submitted in writing to the Commissioner of Highways and the Chairman of HRTAC and a sixty (60) day period provided for their review and attempted resolution. Exhaustion of this administrative procedure is a prerequisite to, but not a substitute for, the right of either party to seek judicial relief, except that exhaustion of the foregoing procedure shall not be a prerequisite to seeking injunctive or equitable relief.

6. LIABILITY FOR ADMINISTRATION OF FUNDS:

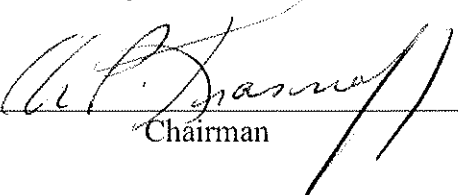
Nothing in this Agreement shall be deemed to waive either Party's defense of sovereign immunity applicable to any claims that might arise as a consequence of this Agreement.

7. MODIFICATION OF AGREEMENT:

This Agreement may be modified only by written agreement, duly executed by both Parties.

IN WITNESS WHEREOF, the Parties have caused this Memorandum of Agreement to be executed by their duly authorized representatives on the 30th day of March, 2015 which shall be the effective date of this Agreement.

Hampton Roads Transportation
Accountability Commission

By: 
Chairman

Virginia Department of Transportation

By: 
Commissioner

EXHIBIT A
EXAMPLE OF MONTHLY FINANCIAL REPORT

VIRGINIA DEPARTMENT OF TRANSPORTATION
 CASH BASIS STATEMENT OF OPERATIONS
 HAMPTON ROADS TRANSPORTATION ACCOUNTABILITY COMMISSION
 MONTHLY ACTIVITY AND YEAR TO DATE
 DECEMBER 2014 (FY 15)

	CURRENT MONTH DECEMBER 2014	YEAR TO DATE DECEMBER 2014
	HB 2313 HAMPTON ROADS FUND 0982	HB 2313 HAMPTON ROADS FUND 0982
BEGINNING CASH & INVESTMENTS	\$ 72,260,552	\$ -
REVENUES		
State Sales and Use Tax	9,957,270	61,848,902
Local Fuels Taxes	2,947,347	23,314,411
<i>Total Local Revenues - net of revenue refunds</i>	12,904,617	85,163,313
Interest		1,856
TOTAL REVENUES	12,904,617	85,165,169
EXPENDITURES (By Program)		
Total Financial Assistance to Localities		
TOTAL EXPENDITURES		
OTHER DISBURSEMENTS (Inc'l GLA Adj.)		
TOTAL AMOUNT DISBURSED		
ENDING CASH AND INVESTMENTS	\$ 85,165,169	\$ 85,165,169

Prepared by VDOT Fiscal Division - Financial Reporting Section

Hampton Roads Transportation Accountability Commission
Revenues By Locality
December 2014 FY 15 and Year to Date

Locality	State Sales and Use Tax Dec-14	State Sales and Use Tax YTD	Local Fuels Tax Dec-14	Local Fuels Tax YTD	Totals Dec-14	Totals YTD
Isle of Wight	\$ 105,977	\$ 674,171	\$ 116,192	\$ 815,207	\$ 222,169	\$ 1,489,378
James City	520,766	3,214,073	43,239	498,227	564,006	3,712,300
Southampton	25,102	168,399	44,066	304,773	69,168	473,173
York	458,313	2,837,362	155,462	1,179,982	613,775	4,017,344
Chesapeake	1,789,662	10,924,729	585,617	4,432,863	2,375,279	15,357,592
Franklin	79,338	452,781	48,223	334,488	127,562	787,269
Hampton	726,294	4,474,234	195,731	1,808,052	922,025	6,282,286
Newport News	1,105,962	6,530,267	327,154	2,246,984	1,433,116	8,777,251
Norfolk	1,470,547	9,013,702	310,703	2,551,669	1,781,250	11,565,372
Poquoson	30,646	147,306	2,197	82,735	32,843	230,040
Portsmouth	325,462	1,986,265	134,905	1,003,912	460,368	2,990,177
Suffolk	412,728	2,428,406	192,984	1,628,602	605,712	4,057,007
Virginia Beach	2,672,871	17,518,585	740,956	5,974,785	3,413,827	23,493,371
Williamsburg	233,601	1,478,621	49,918	452,132	283,519	1,930,753
	<u>\$ 9,957,270</u>	<u>\$ 61,848,902</u>	<u>\$ 2,947,347</u>	<u>\$ 23,314,411</u>	<u>\$ 12,904,617</u>	<u>\$ 85,163,313</u>

Hampton Roads Transportation Accountability Commission
Regional Portion of Sales Tax
Distribution (Includes Unassigned Amounts)
DECEMBER 2014 FY 15 and Year to Date

Locality	Amount	% of Total	Distribution of Unassigned Amount	Less: Administrative Fee	Net Distribution Dec-14	YTD
Isle of Wight	\$ 105,927.77	1.06%	\$ 124.80	\$ 75.09	\$ 105,977.48	\$ 674,171.39
James City	520,522.08	5.23%	613.27	368.99	520,766.36	3,214,073.37
Southampton	25,089.96	0.25%	29.56	17.79	25,101.73	168,399.40
York	458,098.26	4.60%	539.72	324.74	458,313.25	2,837,361.55
Chesapeake	1,788,822.31	17.97%	2,107.56	1,268.06	1,789,661.81	10,924,728.59
Franklin	79,301.25	0.80%	93.43	56.22	79,338.47	452,781.22
Hampton	725,952.81	7.29%	855.30	514.61	726,293.50	4,474,233.79
Newport News	1,105,443.28	11.11%	1,302.41	783.63	1,105,962.07	6,530,267.24
Norfolk	1,469,856.84	14.77%	1,731.76	1,041.95	1,470,546.65	9,013,702.38
Poquoson	30,631.95	0.31%	36.09	21.71	30,646.33	147,305.50
Portsmouth	325,309.74	3.27%	383.27	230.61	325,462.41	1,986,265.38
Suffolk	412,534.12	4.14%	486.04	292.44	412,727.72	2,428,405.83
Virginia Beach	2,671,617.57	26.84%	3,147.65	1,893.85	2,672,871.37	17,518,585.15
Williamsburg	233,491.11	2.35%	275.09	165.52	233,600.69	1,478,621.26
	<u>\$ 9,952,599.05</u>	<u>100.00%</u>	<u>\$ 11,725.97</u>	<u>\$ 7,055.19</u>	<u>\$ 9,957,269.83</u>	<u>\$ 61,848,902.06</u>

Hampton Roads Transportation Accountability Commission
Local Fuels Tax
Monthly Distribution
DECEMBER 2014 FY 15 and Year to Date

Locality	Dec-14	YTD
Isle of Wight	\$ 116,191.70	\$ 815,206.85
James City	43,239.36	498,226.91
Southampton	44,065.80	304,773.29
York	155,461.72	1,179,982.11
Chesapeake	585,616.71	4,432,863.01
Franklin	48,223.42	334,488.25
Hampton	195,731.36	1,808,052.45
Newport News	327,154.05	2,246,984.15
Norfolk	310,702.87	2,551,669.12
Poquoson	2,197.00	82,734.73
Portsmouth	134,905.40	1,003,911.60
Suffolk	192,984.27	1,628,601.56
Virginia Beach	740,955.54	5,974,784.55
Williamsburg	49,917.86	452,132.15
	<u>\$ 2,947,347.06</u>	<u>\$ 23,314,410.73</u>

Cash Forecast for Hampton Roads Transportation Fund (Fund detail 0982)

Base Forecast

	July-14	August-14	September-14	October-14	November-14	December-14	January-15	February-15	March-15	April-15	May-15	June-15	Total
Cash Balance	\$-	\$460,041	\$15,965,518	\$31,448,253	\$16,006,583	\$15,225,943	\$16,172,658	\$18,151,755	\$13,480,935	\$13,778,868	\$15,890,473	\$16,362,342	\$21,039,281
.7% Local Sales Tax	6,389,132	10,909,810	10,755,725	11,169,720	10,712,929	11,918,669	13,595,092	8,766,891	9,739,242	11,941,100	11,662,026	5,596,753	123,157,091
2.1% Fuels Tax	460,041	4,595,667	4,727,009	4,836,863	4,513,013	4,253,990	4,556,663	4,714,043	4,039,626	3,949,372	4,700,316	9,053,396	54,400,000
Interest	-	-	-	-	-	-	-	-	-	-	-	-	-
Total Revenues	6,849,173	15,505,477	15,482,734	16,006,583	15,225,943	16,172,658	18,151,755	13,480,935	13,778,868	15,890,473	16,362,342	14,650,149	177,557,091
Available for Disbursement	460,041	5,055,708	20,692,527	35,285,116	20,519,596	19,479,933	20,729,321	22,865,798	17,520,561	17,728,240	20,590,788	25,415,738	177,557,091
Expenditures													
Financial Assistance	-	-	-	31,448,253	16,006,583	15,225,943	16,172,658	18,151,755	13,480,935	13,778,868	15,890,473	16,362,342	156,517,810
Total Expenditures	-	-	-	31,448,253	16,006,583	15,225,943	16,172,658	18,151,755	13,480,935	13,778,868	15,890,473	16,362,342	156,517,810
Other Disbursements	-	-	-	-	-	-	-	-	-	-	-	-	-
Total Transfers Out	-	-	-	-	-	-	-	-	-	-	-	-	-
Amount Disbursed	-	-	-	31,448,253	16,006,583	15,225,943	16,172,658	18,151,755	13,480,935	13,778,868	15,890,473	16,362,342	156,517,810
Net Cash Flow	\$460,041	\$15,505,477	\$15,482,734	(\$15,441,670)	(\$780,640)	\$946,716	\$1,979,097	(\$4,670,820)	\$297,933	\$2,111,605	\$471,869	\$4,676,939	\$21,039,281
Ending Cash	\$460,041	\$15,965,518	\$31,448,253	\$16,006,583	\$15,225,943	\$16,172,658	\$18,151,755	\$13,480,935	\$13,778,868	\$15,890,473	\$16,362,342	\$21,039,281	\$21,039,281

Forecast Update
(Actuals through November)

	July-14	August-14	September-14	October-14	November-14	December-14	January-15	February-15	March-15	April-15	May-15	June-15	Total
Cash Balance	\$-	\$14,428,014	\$29,502,679	\$44,712,893	\$58,747,745	\$72,260,552	\$85,165,169	\$103,116,872	\$13,947,405	\$13,897,506	\$15,774,271	\$16,420,037	
.7% Local Sales Tax	10,328,235	10,701,965	10,856,878	10,882,162	3,590,415	9,957,270	13,155,409	9,359,867	9,892,286	11,751,495	11,768,933	11,938,212	123,383,126
2.1% Fuels Tax	4,099,779	4,372,700	4,353,336	3,950,834	9,922,392	2,947,347	4,413,051	4,587,539	4,005,219	3,960,237	4,651,103	8,933,681	60,197,218
Interest	-	-	-	3,856	-	-	383,243	-	-	62,539	-	73,890	521,528
Total Revenues & Transfers	14,428,014	15,074,665	15,210,214	14,034,852	13,512,807	12,904,617	17,951,703	13,947,405	13,897,506	15,774,271	16,420,037	20,945,782	184,101,872
Available for Disbursement	14,428,014	29,502,679	44,712,893	58,747,745	72,260,552	85,165,169	103,116,872	117,064,277	27,844,911	29,671,776	32,194,307	37,365,819	184,101,872
Expenditures													
Financial Assistance	-	-	-	-	-	-	-	103,116,872	13,947,405	13,897,506	15,774,271	16,420,037	163,156,090
Total Expenditures	-	-	-	-	-	-	-	103,116,872	13,947,405	13,897,506	15,774,271	16,420,037	163,156,090
Other Disbursements	-	-	-	-	-	-	-	-	-	-	-	-	-
Total Transfers Out	-	-	-	-	-	-	-	-	-	-	-	-	-
Amount Disbursed	-	-	-	-	-	-	-	103,116,872	13,947,405	13,897,506	15,774,271	16,420,037	163,156,090
Net Cash Flow	\$14,428,014	\$15,074,665	\$15,210,214	\$14,034,852	\$13,512,807	\$12,904,617	\$17,951,703	(\$89,169,466)	(\$49,900)	\$1,876,765	\$645,766	\$4,525,746	\$20,945,782
Ending Cash	\$14,428,014	\$29,502,679	\$44,712,893	\$58,747,745	\$72,260,552	\$85,165,169	\$103,116,872	\$13,947,405	\$13,897,506	\$15,774,271	\$16,420,037	\$20,945,782	\$20,945,782

EXHIBIT B
MODEL SPA
CURRENTLY UNDER DEVELOPMENT

EXHIBIT C
APPROVAL OF CURRENT HRTAC PROJECTS

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

History.

2002, c. 846, § 15.2-4840; 2007, c. 896; 2014, c. 805.

Law Review.

For essay, "Marshall v. Northern Virginia Transportation Authority: The Supreme Court of Virginia Rules that Taxes Can Be Imposed By Elected Bodies Only," see 43 U. Rich. L. Rev. 51 (2008).

CHAPTER 26.

HAMPTON ROADS TRANSPORTATION ACCOUNTABILITY COMMISSION.

Section

- 33.2-2600. Hampton Roads Transportation Fund.
- 33.2-2601. Commission created.
- 33.2-2602. Composition of Commission.
- 33.2-2603. Staff.
- 33.2-2604. Decisions of Commission.
- 33.2-2605. Annual budget and allocation of expenses.
- 33.2-2606. Authority to issue bonds.
- 33.2-2607. Powers of the Commission.
- 33.2-2608. Additional powers of the Commission.
- 33.2-2609. Commission a responsible public entity under Public-Private Transportation Act of 1995.
- 33.2-2610. Continuing responsibilities of the Commonwealth Transportation Board and the Department of Transportation.
- 33.2-2611. Use of revenues by the Commission.

§ 33.2-2600. Hampton Roads Transportation Fund.

There is hereby created in the state treasury a special nonreverting fund for Planning District 23 to be known as the Hampton Roads Transportation Fund, referred to in this chapter as "the Fund." The Fund shall be established on the books of the Comptroller. All revenues dedicated to the Fund pursuant to § 58.1-638 and Chapter 22.1 (§ 58.1-2291 et seq.) of Title 58.1 shall be paid into the state treasury and credited to the Fund. Interest earned on moneys in the Fund shall remain in the Fund and be credited to it. Any moneys remaining in the Fund, including interest thereon, at the end of each fiscal year shall not revert to the general fund but shall remain in the Fund. 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. The Hampton Roads Transportation Accountability Commission shall give priority to those projects that are expected to provide the greatest impact on reducing congestion

for the greatest number of citizens residing within Planning District 23 and shall ensure that the moneys shall be used for such construction projects.

The amounts dedicated to the Fund shall be deposited monthly by the Comptroller into the Fund. The amounts deposited into the Fund and the distribution and expenditure of such amounts shall not be used to calculate or reduce the share of federal, state, or local revenues otherwise available to participating localities. Further, such revenues and moneys shall not be included in any computation of, or formula for, a locality's ability to pay for public education, upon which appropriations of state revenues to local governments for public education are determined.

History.

2013, c. 766, § 33.1-23.5:4; 2014, cc. 545, 678, 805.

Editor's note.

Former § 33.1-23.5:4, from which this section was derived, was enacted as § 33.1-23.5:3 by Acts 2013, c. 766, and subsequently renumbered at the direction of the Virginia Code Commission.

Acts 2013, c. 766, cl. 9 provides: "That the Texas Transportation Institute's annual report on highway congestion ranks the Northern Virginia/Washington, D.C. area as the worst area for traffic congestion in the nation, and the Hampton Roads region as the twentieth most congested area of the 101 areas studied. Such congestion has an average commuter cost of nearly \$1,400 in Northern Virginia and \$877 per commuter in Hampton Roads. Such congestion negatively impacts Virginia's economic prosperity, strategic military connectivity, emergency preparedness, and environmental quality. Regions with populations in excess of 1.5 million citizens and 1.2 million registered vehicles are prone to greater levels of congestion and growing transit needs. Therefore, the General Assembly finds that transportation construction and maintenance in the Northern Virginia and Hampton Roads regions are high priorities, and that as other regions of the Commonwealth continue to grow, the same priority shall be given."

Acts 2013, c. 766, cl. 10 provides: "That each county or city located in Planning District 8 or Planning District 23 as of January 1, 2013, shall expend or disburse for transportation purposes each year an amount that is at least equal to the average annual amount expended or disbursed for transportation purposes by the county or city, excluding bond proceeds or debt service payments and federal or state grants, between July 1, 2010, and June 30, 2013. Each county or city located in any other Planning District that becomes subject to the state taxes or fees imposed solely in Planning Districts pursuant to this act shall expend or disburse for transportation purposes each year an amount that is at least equal to the average annual amount expended or disbursed for transportation purposes by the county or city, excluding bond proceeds or debt service payments and federal or state grants, during the 36-month period immediately prior to the effective date of the imposition of such state taxes or fees in the Planning District. In the event that any such county or city does not expend or disburse such an amount, that county or city shall not be the direct beneficiary of any of the revenues generated by the state taxes or fees imposed solely in Planning Districts pursuant to this act in the immediately succeeding year."

Acts 2014, cc. 545 and 678 amended § 33.1-23.5:4, from which this section is derived. Pursuant to § 30-152, the 2014 amendments by cc. 545 and 678 have been given effect in this section in the first paragraph by substituting "highways" for "roads" in the sixth sentence, substituting "Accountability Commission" for "Planning Organization" in sixth and last sentences, and in the last sentence, inserting "for the greatest number of citizens residing within Planning District 23" and deleting "in all localities comprising Planning District 23" at the end.

Acts 2014, cc. 545 and 678, cl. 2 provides: "That the staff of the Hampton Roads Transportation Planning Organization and the Department of Transportation shall work cooperatively to assist

the proper formation and effective organization of the Hampton Roads Transportation Accountability Commission. Until such time as the Commission is fully established and functioning, the staff of the Hampton Roads Transportation Planning Organization shall serve as its staff, and the Hampton Roads Transportation Planning Organization shall provide the Commission with office space and administrative support. The Commission shall reimburse the Hampton Roads Transportation Planning Organization for the cost of such staff, office space, and administrative support as appropriate."

Acts 2014, c. 726, cl. 4 provides: "That the prioritization process developed pursuant to § 33.1-23.5:5 of the Code of Virginia, as created by this act, shall not apply to funds allocated to the Northern Virginia Transportation Authority Fund established pursuant to § 15.2-4838.01 of the Code of Virginia, the Hampton Roads Transportation Fund established pursuant to § 33.1-23.5:4 of the Code of Virginia, or federal funds subject to 23 U.S.C. 125(d)(1)(A)(i)."

§ 33.2-2601. Commission created.

The Hampton Roads Transportation Accountability Commission, referred to in this chapter as "the Commission," is hereby created as a body politic and as a political subdivision of the Commonwealth. The Commission shall embrace each county and city located in Planning District 23, which is established pursuant to Chapter 42 (§ 15.2-4200 et seq.) of Title 15.2.

History.

2014, cc. 545, 678.

Editor's note.

Acts 2014, cc. 545 and 678 enacted Chapter 19 (§§ 33.1-466 through 33.1-476) of Title 33.1, from which this chapter is derived. Pursuant to § 30-152, Acts 2014, cc. 545 and 678 have been given effect as §§ 33.2-2601 through 33.2-2611.

Acts 2014, cc. 545 and 678, cl. 2 provides: "That the staff of the Hampton Roads Transportation Planning Organization and the Department of Transportation shall work cooperatively to assist the proper formation and effective organization of the Hampton Roads Transportation Accountability Commission. Until such time as the Commission is fully established and functioning, the staff of the Hampton Roads Transportation Planning Organization shall serve as its staff, and the Hampton Roads Transportation Planning Organization shall provide the Commission with office space and administrative support. The Commission shall reimburse the Hampton Roads Transportation Planning Organization for the cost of such staff, office space, and administrative support as appropriate."

§ 33.2-2602. Composition of Commission.

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;
2. Three members of the House of Delegates who reside in different counties or cities embraced by the Commission, appointed by the Speaker of the House, and two members of the Senate who reside in different counties or cities embraced by the Commission, appointed by the Senate Committee on Rules; and
3. The following four persons serving as nonvoting ex officio members of the Commission: a member of the Commonwealth Transportation Board who

resides in a locality embraced by the Commission and is appointed by the Governor; the Director of the Department of Rail and Public Transportation, or his designee; the Commissioner of Highways, or his designee; and the Executive Director of the Virginia Port Authority, or his designee.

All members of the Commission shall serve terms coincident with their terms of office. Vacancies shall be filled in the same manner as the original appointment.

The Commission shall elect a chairman and vice-chairman from among its voting membership.

The Auditor of Public Accounts, or his legally authorized representatives, shall annually audit the financial accounts of the Commission, and the cost of such audit shall be borne by the Commission.

History.

2014, cc. 545, 678.

§ 33.2-2603. Staff.

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

History.

2014, cc. 545, 678.

§ 33.2-2604. Decisions of Commission.

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. The population of counties and cities embraced by the Commission shall be the population as determined by the most recently preceding decennial census, except that on July 1 of the fifth year following such census, the population of