

BY: Commerce and Government Matters Committee

AMENDMENTS TO SENATE BILL NO. 232

(Third Reading File Bill)

AMENDMENT NO. 1

On page 1, strike beginning with “Citizen’s” in line 2 down through “Act” in line 3 and substitute “- Public Easement Roads”; strike beginning with “allowing” in line 4 down through “referendum” in line 19 and substitute “requiring the Board of County Commissioners for Frederick County to accept an easement granted by certain associations located in certain election districts if certain requirements are satisfied; prohibiting the Board of County Commissioners from providing the required acceptance of an easement subject to any other conditions; requiring the Board of County Commissioners to disburse certain highway user revenues to certain associations located in certain election districts under certain circumstances; providing for the administration and disbursement of certain highway user revenues; creating a certain exception to the authority of the Board of County Commissioners to establish criteria for the use of certain county road funds; providing for the application of this Act; defining certain terms; and generally relating to public easement roads in Frederick County”; and strike in their entirety lines 21 through 24, inclusive, and substitute:

“The Public Local Laws of Frederick County
Section 2-11-8
Article 11 - Public Local Laws of Maryland
(1979 Edition and March 2001 Supplement, as amended)
(As enacted by Chapter 250 of the Acts of the General Assembly of 2001)”

BY adding to

The Public Local Laws of Frederick County
Section 2-11-8.1
Article 11 - Public Local Laws of Maryland
(1979 Edition and March Supplement, as amended)”.

(Over)

AMENDMENT NO. 2

On pages 2 and 3, strike in their entirety the lines beginning with line 1 on page 2 through line 34 on page 3, inclusive, and substitute:

“Article 11 - Frederick County

2-11-8.

(a) As used in this section, “Public easement road” means any road:

(1) Located in Frederick County;

(2) Owned or maintained by a homeowner’s association or an incorporated nonprofit community organization; and

(3) Over which the Board of County Commissioners has been granted, and the Board of County Commissioners has accepted, an easement for public use.

(b) [The] SUBJECT TO § 2-11-8.1 OF THIS CHAPTER, THE Board of County Commissioners may use funds designated for county road purposes by the federal or State government for county road purposes or a public easement road.

(c) [The] EXCEPT AS PROVIDED IN § 2-11-8.1 OF THIS CHAPTER, THE Board of County Commissioners may establish criteria for the use of funds designated for county road purposes and for the qualifications for a public easement road.

2-11-8.1.

(A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

(2) “ASSOCIATION” MEANS A HOMEOWNER’S ASSOCIATION OR AN INCORPORATED NONPROFIT COMMUNITY ORGANIZATION THAT OWNS OR MAINTAINS A PUBLIC EASEMENT ROAD.

(3) “BOARD” MEANS THE BOARD OF COUNTY COMMISSIONERS OF FREDERICK COUNTY.

(4) (I) “EASEMENT” MEANS AN EASEMENT FOR PUBLIC USE.

(II) “EASEMENT” DOES NOT INCLUDE AN EASEMENT FOR A UTILITY COMPANY.

(5) “HIGHWAY USER REVENUES” MEANS THE HIGHWAY USER REVENUES AS DEFINED IN AND ADMINISTERED IN ACCORDANCE WITH §§ 8-401 THROUGH 8-413 OF THE TRANSPORTATION ARTICLE OF THE ANNOTATED CODE OF MARYLAND.

(6) “PUBLIC EASEMENT ROAD” MEANS A ROAD:

(I) LOCATED IN FREDERICK COUNTY;

(II) OWNED AND MAINTAINED BY AN ASSOCIATION;

(III) OVER WHICH THE BOARD HAS BEEN GRANTED AN EASEMENT; AND

(IV) WHICH HAS A MINIMUM:

1. RIGHT-OF-WAY WIDTH OF 30 FEET;

2. LENGTH OF 0.02 MILES; AND

3. ROAD SURFACE STONE OR PAVED MINIMUM WIDTH OF 12 FEET.

(B) THIS SECTION APPLIES ONLY IN COUNTY ELECTION DISTRICTS 9 AND 13.

(C) (1) THE BOARD SHALL ACCEPT THE EASEMENT GRANTED BY AN ASSOCIATION LOCATED IN ELECTION DISTRICTS 9 AND 13 IF THE REQUIREMENTS OF SUBSECTION (E) OF THIS SECTION ARE MET.

(Over)

(2) THE BOARD MAY NOT GIVE THE REQUIRED ACCEPTANCE UNDER PARAGRAPH (1) OF THIS SUBSECTION SUBJECT TO ANY OTHER CONTINGENCY.

(D) (1) THE BOARD SHALL DISBURSE TO AN ASSOCIATION THE PRORATED SHARE OF THE HIGHWAY USER REVENUES THAT CORRESPONDS TO THE MILEAGE OF THE PUBLIC EASEMENT ROADS THAT IS SUBMITTED BY THE ASSOCIATION TO THE BOARD UNDER PARAGRAPH (E)(4) OF THIS SECTION AND ACCEPTED BY THE STATE HIGHWAY ADMINISTRATION LESS NECESSARY REASONABLE EXPENSES CONNECTED WITH THE ADMINISTRATION OF AND DISBURSEMENTS FROM THE HIGHWAY USER REVENUES OF THE BOARD PAID TO THIRD PARTIES.

(2) THE BOARD SHALL REVISE ITS FORMULA OR METHOD OF DISBURSEMENT OF HIGHWAY USER REVENUES TO CORRESPOND TO ANY CHANGES THE STATE MAY MAKE TO ITS FORMULA OR METHOD FOR HIGHWAY USER DISBURSEMENTS.

(E) (1) THE HIGHWAY USER REVENUES ALLOCATED FOR THE PUBLIC EASEMENT ROADS SHALL BE DISBURSED AND ADMINISTERED AS INDICATED IN THIS SUBSECTION.

(2) EACH ASSOCIATION SHALL SUBMIT A LEGAL OPINION TO THE BOARD VERIFYING THAT ASSOCIATION'S AUTHORITY TO GRANT THE EASEMENT TO THE BOARD.

(3) EACH ASSOCIATION SHALL INDEMNIFY AND HOLD THE BOARD HARMLESS FROM ALL LIABILITY ASSOCIATED WITH THE USE OF PUBLIC EASEMENT ROADS AND THE EXPENDITURE OF THE HIGHWAY USER REVENUES FOR THAT ASSOCIATION'S PUBLIC EASEMENT ROADS.

(4) ON OR BEFORE SEPTEMBER 1 OF EACH YEAR, EACH ASSOCIATION SHALL SUBMIT TO THE BOARD INFORMATION ON THAT ASSOCIATION'S PUBLIC EASEMENT ROADS IN THE FORMAT SPECIFIED BY THE STATE HIGHWAY

ADMINISTRATION AND A LIST OF:

(I) NEW PUBLIC EASEMENT ROADS;

(II) THE DEEDS OF EASEMENT FOR PUBLIC EASEMENT ROADS;

(III) RECORDED PLAT REFERENCES; OR

(IV) ANOTHER LEGAL DESCRIPTION OF THE PUBLIC EASEMENT ROADS ACCEPTABLE TO THE BOARD.

(5) (I) AN ASSOCIATION MAY REQUEST A RELEASE OF THE EASEMENT OVER ALL OR PART OF ITS PUBLIC EASEMENT ROADS BY A WRITTEN NOTICE TO THE BOARD SETTING FORTH THE REASONS FOR THE REQUEST.

(II) THE BOARD SHALL REDUCE THE HIGHWAY USER REVENUES ALLOCATED TO THE ASSOCIATION IN PROPORTION TO THE MILEAGE OF THE RELEASED PUBLIC EASEMENT.

(6) ON OR BEFORE AUGUST 15 OF EACH YEAR, EACH ASSOCIATION SHALL PROVIDE A CERTIFICATION LETTER TO FREDERICK COUNTY'S DIRECTOR OF FINANCE SETTING FORTH HOW THE HIGHWAY USER REVENUES WERE USED BY THAT ASSOCIATION DURING THAT ASSOCIATION'S PREVIOUS FISCAL YEAR.

(7) EMPLOYEES OF EACH ASSOCIATION SHALL BE BONDED OR INSURED FOR FRAUD AND DISHONESTY COVERAGE FOR AN AMOUNT NOT LESS THAN \$50,000.

(8) HIGHWAY USER REVENUES PROVIDED TO AN ASSOCIATION MAY NOT BE SUBSTITUTED FOR ANY EXISTING CONTRACTUAL OR COVENANTED OBLIGATIONS OF THE ASSOCIATION TO FUND ROADWAY MAINTENANCE AS IS DEFINED IN THE ASSOCIATION'S COVENANTS.

(Over)

(9) THE BOARD MAY AUDIT THE BOOKS AND RECORDS OF AN ASSOCIATION WITH RESPECT TO THE ASSOCIATION'S USE OF ANY HIGHWAY USER REVENUES.

(10) (I) HIGHWAY USER REVENUES SHALL BE USED BY AN ASSOCIATION ONLY FOR THE CONSTRUCTION, MAINTENANCE, OPERATION, AND IMPROVEMENT OF THE PUBLIC EASEMENT ROADS AND THE ADMINISTRATIVE EXPENSES DIRECTLY ASSOCIATED WITH THE ASSOCIATION'S USE OF THE HIGHWAY USER REVENUES.

(II) THE ASSOCIATION SHALL COMPLY WITH ALL APPLICABLE FEDERAL AND STATE REQUIREMENTS REGARDING THE USE OF HIGHWAY USER REVENUES.

(11) HIGHWAY USER REVENUES MAY NOT BE USED FOR CONSTRUCTION OR RECONSTRUCTION OF A PUBLIC EASEMENT ROAD UNLESS THE STATE HIGHWAY ADMINISTRATION HAS APPROVED THE PLANS FOR THE ROAD BEFORE THE CONSTRUCTION.

(12) IF AN ASSOCIATION CONVEYS ANY PUBLIC EASEMENT ROAD TO THE BOARD, THE BOARD SHALL PROPORTIONATELY REDUCE THE HIGHWAY USER REVENUES ALLOCATED TO THE ASSOCIATION.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect June 1, 2002."