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# VIRGINIA STATE BUDGET

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2013 Session

## Budget Bill - HB1500 (Chapter 806)

Bill Order » Office of Transportation » Item 430

Secretary of Transportation

Item 430	First Year - FY2013	Second Year - FY2014
<b>Administrative and Support Services (79900)</b>	<b>\$814,573</b>	<b>\$814,573</b>
General Management and Direction (79901)	\$814,573	\$814,573
Fund Sources:		
Commonwealth Transportation	\$814,573	\$814,573

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Authority: Title 2.2, Chapter 2, Article 10, § [2.2-201](#), and Titles 33, 46, and 58, Code of Virginia.

A. The transportation policy goals enumerated in this act shall be implemented by the Secretary of Transportation, including the Secretary acting as Chairman of the Commonwealth Transportation Board.

1. The maintenance of existing transportation assets to ensure the safety of the public shall be the first priority in budgeting, allocation, and spending. The highway share of the Transportation Trust Fund shall be used for highway maintenance and operation purposes prior to its availability for new development, acquisition, and construction.

2. The efficient and cost-effective movement of people and goods will consider the needs in, and connectivity of, all modes of transportation, including bicycling, walking, public transportation, highways, freight and passenger rail, ports, and airports. The planning, development, construction, and operations of Virginia's transportation facilities will reflect this goal.

3. To the greatest extent possible, the appropriation of transportation revenues shall reflect planned spending of such revenues by agency and by program. The maximization of all federal transportation funds available to the Commonwealth shall be paramount in the budgetary, spending, and allocation processes. *Notwithstanding any provision of law to the contrary, ~~The~~ the secretary is and all agencies within the transportation secretariat are hereby authorized to take all actions necessary to ensure that federal transportation funds are allocated and utilized for the maximum benefit of the Commonwealth, whether such actions or funds or both are authorized under P.L. ~~109-59~~ 112-141 of the ~~109th~~ 112th Congress, or any successor or related federal transportation legislation, or regulation, rule, or guidance issued by the U.S. Department of Transportation or any federal agency.*

B.1. The secretary shall ensure that the allocation of transportation funds apportioned and for which obligation authority is expected to be available under federal law shall be in accordance with such laws and in support of the transportation policy goals enumerated in this act. Furthermore, the secretary is authorized to take all actions necessary to allocate the required match for federal highway funds to ensure their appropriate and timely obligation and expenditure within the fiscal constraints of state transportation revenues. By June 1 of each year, the secretary, as Chairman of the Board, shall report to the Governor and General Assembly on the allocation of such federal transportation funds and the actions taken to provide the required match.

2. The board shall only make allocations providing the required match for federal Regional Surface Transportation Program funds to those Metropolitan Planning Organizations in urbanized areas greater than 200,000 that, in consultation with the Office of Intermodal Planning and Investment, have developed regional transportation and

land use performance measures pursuant to Chapters 670 and 690 of the 2009 Acts of Assembly and have been approved by the board.

3. Projects funded, in whole or part, from federal funds referred to as congestion mitigation and air quality improvement, shall be selected as directed by the board. Such funds shall be federally obligated within 24 months of their allocation by the board and expended within 48 months of such obligation. If the requirements included in this paragraph are not met by such agency or recipient, then the board shall use such federal funds for any other project eligible under 23 USC 149.

4. Funds apportioned under federal law for the Surface Transportation Program shall be distributed and administered in accordance with federal requirements, including the ~~seven~~<sup>22</sup> percent of the non-suballocated portion that is required to be allocated for public transportation purposes. *Funds for contract fees paid by the Virginia Railway Express for access to the rights-of-way of CSX Transportation, Norfolk Southern Corporation, and the National Railroad Passenger Corporation shall be allocated from the public transportation's portion of federal Surface Transportation Program funds.*

5. Funds made available to the Metropolitan Planning Organizations known as the Regional Surface Transportation Program for urbanized areas greater than 200,000 shall be federally obligated within 12 months of their allocation by the board and expended within 36 months of such obligation. If the requirements included in this paragraph are not met by the recipient, then the board may rescind the required match for such federal funds.

~~6. Funds apportioned under federal law for the Equity Bonus program shall be allocated as required by federal law, including the thirteen percent that is required to be allocated for public transportation purposes. Funds for contract fees paid by the Virginia Railway Express for access to the rights of way of CSX Transportation, Norfolk Southern Corporation, and the National Railroad Passenger Corporation shall be allocated from the public transportation's portion of federal Equity Bonus program funds.~~

7. Notwithstanding paragraph B.1. of this Item, the required matching funds for ~~enhancement~~ *Transportation Alternatives* projects are to be provided by the recipient of the federal-aid funding.

8.a. Federal funds provided to the ~~National Highway System~~ *National Highway Performance Program*, Surface Transportation Program, ~~Equity Bonus Program~~, and Congestion Mitigation and Air Quality categories as well as the required state matching funds may be allocated by the Commonwealth Transportation Board for transit purposes under the same rules and conditions authorized by federal law. The Commonwealth Transportation Board, in consultation with the appropriate local and regional entities, may allocate to local and regional public transit operators, for operating and/or capital purposes, state revenues designated by formula for primary, urban, and secondary highways.

b. Federal funds ~~apportioned as the Highway Bridge Program~~ *used to fund bridge projects* shall be allocated and obligated as required by federal law to eligible projects across the Commonwealth. The Commonwealth Transportation Board shall consider the sufficiency and deficiency ratings of such eligible projects in making their allocations.

9. If a regional area (or areas) of the Commonwealth is determined to be not in compliance with Clean Air Act rules regarding conformity and as a result federal and/or state allocations, apportionments or obligations cannot be used to fund or support transportation projects or programs in that area, such funds may be used to finance demand management, conformity, and congestion mitigation projects to the extent allowed by federal law. Any remaining amount of such allocations, apportionments, or obligations shall be set aside to the extent possible under law for use in that regional area.

10. Appropriations in this act related to federal revenues outlined in this section may be adjusted by the Director, Department of Planning and Budget, upon request from the Secretary of Transportation, as needed to utilize and

allocate additional federal funds that may become available.

C. The secretary may ensure that appropriate action is taken to maintain a minimum cash balance and/or cash reserve in the Highway Maintenance and Operating fund.

D.1. The Commonwealth Transportation Board is hereby authorized to apply for, execute, and/or endorse applications submitted by private entities to obtain federal credit assistance for one or more qualifying transportation infrastructure projects or facilities to be developed pursuant to the Public-Private Transportation Act of 1995, as amended. Any such application, agreement and/or endorsement shall not financially obligate the Commonwealth or be construed to implicate the credit of the Commonwealth as security for any such federal credit assistance.

2. The Commonwealth Transportation Board is hereby authorized to pursue or otherwise apply for, and execute, an agreement to obtain financing using a federal credit instrument for project financings otherwise authorized by this Act or other Acts of Assembly.

E. Revenues generated pursuant to the provisions of § 58.1-3221.3, Code of Virginia, shall only be used to supplement, not supplant, any local funds provided for transportation programs within the localities authorized to impose the fees under the provisions of § 58.1-3221.3, Code of Virginia.

F. The Director, Department of Planning and Budget, is authorized to adjust the appropriation of transportation agencies in order to utilize proceeds from the sale of Commonwealth of Virginia Transportation Capital Projects Revenue Bonds which were authorized in the prior fiscal year but not issued, pursuant to Section 2 of Enactment Clause 2 of Chapter 896 of the 2007 General Assembly Session.

G. The Director, Department of Planning and Budget, is authorized to adjust the appropriation of transportation agencies in order to utilize proceeds from the sale of Commonwealth of Virginia Federal Transportation Grant Anticipation Revenue Notes.

H. Pursuant to the provisions of the Memorandum of Agreement between the Commonwealth of Virginia Department of Transportation and the Metropolitan Washington Airports Authority, in conjunction with the construction of rail mass transit in the right of way of the Dulles Access/Toll Road Connector (DATRC), sound walls shall be constructed along residential properties from the beginning of the DATRC to Interstate Route 66 with funding from the Commonwealth Transportation Fund.

I. Upon completion of the operational report by the Secretary of Transportation, the Virginia Commercial Space Flight Authority shall develop a comprehensive Virginia Aerospace Strategic Plan to increase the competitiveness of the Virginia aerospace industry. The strategic plan shall be delivered to the Secretary of Transportation for his consideration no later than December 1, 2012.

J. Not later than October 1, 2012, in order to provide the Commonwealth with the greatest flexibility in the use of the Mid-Atlantic Regional Spaceport, the Virginia Commercial Space Flight Authority shall renegotiate the memorandum of understanding among the Commonwealth of Virginia, the Virginia Commercial Space Flight Authority, and Orbital Sciences Corporation.

K.1. Pursuant to the provisions of ~~House Bill 813 and Senate Bill 284~~ *Chapters 779 and 817*, 2012 Session of the General Assembly, \$9,500,000 in the first year and ~~\$9,500,000~~ *\$11,000,000* in the second year shall be transferred to the Commonwealth Space Flight Fund as set forth in § 33.1-23.03:2 to support the maintenance and operations of the Virginia Commercial Space Flight Authority. *This amount shall be increased by \$800,000 the second year to support shoreline protection activities at Wallops Island.*

2. Upon completion of an evaluation by the Inspector General and certification of the costs associated with the

improvements at the Mid-Atlantic Regional Spaceport, the Secretary is authorized to request payment by the Comptroller of additional amounts associated with the Launch Pad 0-A and liquid fueling facility improvements at the Mid-Atlantic Regional Spaceport to Orbital Sciences from ~~unencumbered amounts in~~ the Highway Maintenance and Operating Fund. Such payment shall not occur until the memorandum of understanding between the Commonwealth and Orbital Sciences has been renegotiated. Any payment from Commonwealth Transportation Funds shall not be used to compensate Orbital Sciences for any personal property improvements or costs associated with auxiliary facilities, but shall be limited to launch pad and liquid fueling facility improvements contingent upon transfer of such property to the Virginia Commercial Space Flight Authority.

L. The Secretary of Transportation and, upon request for assistance, staff from the Virginia Department of Transportation, shall collaborate with the Joint Commission on Transportation Accountability to examine ways to improve the efficiency and effectiveness of the implementation of the small, women, and minority owned business program at the Department of Transportation. If, following such a review, the Commission has recommendations regarding improvements to such program, the findings shall be presented to the House Appropriations and Senate Finance Committees at their regularly scheduled meetings in October 2012.

M.1. Except as required by federal law, when engaged in procuring products or services or letting contracts for construction, maintenance, or operation of any transportation facility paid for in whole or in part by state funds, or when overseeing or administering such procurement, construction, maintenance, or operation, neither the Commonwealth Transportation Board, any state transportation agency, nor any construction manager acting on behalf of the state agency shall, in its bid specifications, project agreements, or other controlling documents, provide an incentive in their scoring favoring entities entering into project labor agreements.

2. These provisions shall not apply to any public-private agreement for any construction or infrastructure project in which the private body, as a condition of its investment or partnership with the state agency, requires that the private body have the right to control its labor relations policy and perform all work associated with such investment or partnership in compliance with all collective bargaining agreements to which the private party is a signatory and is thus legally bound with its own employees and the employees of its contractors and subcontractors in any manner permitted by the National Labor Relations Act, 29 U.S.C. § 151 et seq. or the Railway Labor Act, 45 U.S.C. § 151 et seq.; prohibit an employer or any other person covered by the National Labor Relations Act or the Railway Labor Act, 45 U.S.C. § 151 et seq.; from entering into agreements or engaging in any other activity protected by law; or be interpreted to interfere with the labor relations of persons covered by the National Labor Relations Act or the Railway Labor Act.

*N. Notwithstanding any provision of law, any agreement to transfer money from the Commonwealth Transportation Funds to the Metropolitan Washington Airports Authority (MWAA) in connection with Phase II of the Dulles Corridor Metrorail Project beyond Wiehle Avenue in Fairfax County to Washington Dulles International Airport and on to Virginia Route 772 in Loudoun County shall include provisions stating that the MWAA has addressed all of the recommendations included in the November 2012 report of the Inspector General of the U.S. Department of Transportation as a condition of transferring such money. The Governor may waive this requirement for one or more specific recommendations that have not been implemented by notifying the Chairmen of the House Appropriations and Senate Finance Committees of his reason for granting the waiver or waivers.*

*O. 1. The Secretary of Transportation and the Virginia Department of Transportation are hereby directed to initiate an evaluation of whether it would be in the best interest of the Commonwealth to enter into an agreement to purchase the Dulles Greenway, a privately owned toll road extending approximately 14 miles from Washington Dulles International Airport to the Town of Leesburg and connecting the same, as well as any commuter vehicle parking facility used primarily by Dulles Greenway commuters or Dulles Toll Road commuters; or any buildings, structures, parking areas, appurtenances, or other property needed to operate such facility with such parking facility located within one mile of any part of the Dulles Greenway. The intent of such a potential purchase would be to ensure that toll rates remain at reasonable levels and to encourage the implementation of distance tolling.*

*2. In undertaking this evaluation the Secretary shall solicit the input of the Director, Department of General Services and the Department of Treasury to evaluate appropriate financing structures. In evaluating the feasibility of such a plan, it must be shown that any potential purchase price would not exceed fair market value, and that the existing toll rates therefrom could be reasonably expected to pay (i) in full and when payable the debt service on any bonds or obligations issued to acquire and, if necessary, improve or upgrade the Dulles Greenway; (ii) the ongoing costs of operating and maintaining the Dulles Greenway; (iii) the costs of purchasing and installing electronic tolling equipment or other equipment for the Dulles Greenway if such equipment is determined necessary; (iv) ongoing necessary administrative costs relating to the Dulles Greenway. In addition, the tolls for the use of the Dulles Greenway must be reasonably expected to result in a debt service coverage ratio of at least 1.25 for any debt of other obligations proposed to support the purchase of the facility.*

*3. The Secretary shall submit the findings of his assessment to the Chairmen of the House Appropriations and Senate Finance Committees by October 1, 2013 for their review and comment.*

*4. Nothing in the language contained in this item shall be construed as authority to enter into a purchase agreement without notification to the General Assembly of the full details of any proposed purchase agreement no later than 45 days prior to the proposed completion of any proposed purchase agreement. If the recommendation is to proceed with the purchase of such facility, the report to the House Appropriations and Senate Finance Committee Chairmen shall be accompanied by a certification from the Governor that the proposed purchase price could be supported by 9(c) revenue bonds of the Commonwealth.*