2014 Special Session I

Budget Bill - HB5002 (Substitute)

Bill Order » Office of Transportation » Item 427

Secretary of Transportation

Item 427	First Year - FY2015	Second Year - FY2016
Administrative and Support Services (79900)	**$831,149**	**$832,014**
General Management and Direction (79901)	$831,149	$832,014
Fund Sources:		
Commonwealth Transportation	$831,149	$832,014

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 secretary 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. 112-141 of the 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 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 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 22 percent of the non-suballocated portion that is required to be allocated for public transportation purposes.

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. Notwithstanding paragraph B.1. of this Item, the required matching funds for Transportation Alternatives projects are to be provided by the project sponsor of the federal-aid funding.

7.a. Federal funds provided to the National Highway Performance Program, Surface Transportation 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 used to fund bridge projects and the required state matching funds 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.

c. Funds apportioned under federal law to the National Highway Performance Program and Surface Transportion Program may be allocated by the Commonwealth Transportation Board as permitted by federal law for interstate construction projects. Such designated funds shall be treated, for state formulae matching purposes, as interstate funds pursuant to § 33.1-23.1, Code of Virginia.

8. 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.

9. 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.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.

J. 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.