2022 Special Session I

Budget Bill - HB29 (Enrolled)

Bill Order » Office of Transportation » Item 430

Secretary of Transportation

Item 430	First Year - FY2021	Second Year - FY2022
Administrative and Support Services (79900)	**$953,895**	**$953,895**
General Management and Direction (79901)	$953,895	$953,895
Fund Sources:		
Commonwealth Transportation	$953,895	$953,895

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. It is in the interest of the Commonwealth to have an efficient and cost-effective transportation system that promotes economic development and all modes of transportation, intermodal connectivity, environmental quality, accessibility for people and freight, and transportation safety. 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.

B. The maximization of all federal transportation funds available to the Commonwealth shall be paramount in the budgetary, spending, and allocation processes.

1. 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. 117-58 of the 117th Congress* ~~P.L. 114-94 of the 114th 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. The secretary and agencies within the transportation secretariat shall utilize, to the maximum extent practicable, the flexibility provided in federal law, regulation, rule, or guidance to use federal funds in a manner consistent with the Code of Virginia. However, neither the secretary nor an agency in the transportation secretariat may materially delay a project selected pursuant to § 33.2-214.1, Code of Virginia, under the authority in this paragraph.

2. 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 section A. of this Item. 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 and in support of the efforts addressed in B.1. 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.

3. The board shall only make allocations providing the required match for federal Regional Surface Transportation Block Grant 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.

4. 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.

5. Funds made available to the Metropolitan Planning Organizations known as the Regional Surface Transportation Block Grant 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.2. 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. Federal transportation funds 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 in a manner consistent with the Code of Virginia. The Commonwealth Transportation Board, in consultation with the appropriate local and regional entities, may allocate state revenues to local and regional public transit operators, for operating and/or capital purposes.

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.

10. The secretary shall ensure that any bonds issued pursuant to Article 4, Chapter 15 of Title 33.2 shall be programmed to eligible projects selected and funded through the High Priority Projects Program pursuant to § 33.2-370 or the Construction District Grant Program pursuant to §33.2-371. In any year such bond proceeds are allocated to one or both of the programs, the secretary shall take all necessary action to ensure that each program is provided with the same overall amount of monies though the mix of bond proceeds, state revenues, and federal revenues provided to each program may vary as deemed appropriate by the secretary.

11. The Commonwealth Transportation Board, with the assistance of the Virginia Department of Transportation, shall develop a plan for the allocation of funds made available through a bridge replacement, rehabilitation,

preservation, protection and construction program established pursuant to the Infrastructure Investment and Jobs Act. Such plan shall include (i) an investment strategy that provides for long-term sustainable performance of the Commonwealth's bridges, (ii) allocation of funds without regard to whether a structure is state-maintained or locally-maintained, and (iii) be developed considering the investment strategy and outcomes of the comprehensive review of pavements and bridges submitted to the Governor and General Assembly pursuant to the second enactment of Chapters 83 and 349 of the 2019 Acts of Assembly

12. The Commonwealth Transportation Board shall develop a plan for the use of funds made available through the National Electric Vehicle Formula Program established by the Infrastructure Investment and Jobs Act by the deadline established by the United States Secretary of Transportation. The plan shall consider designated national electric vehicle charging corridors, opportunities to partner with private parties, and other factors included in federal guidance for such program.

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 Office of Intermodal Planning and Investment shall recommend to the Commonwealth Transportation Board all allocations of funds made available in subsections A. and B. of Item 446. The planning and evaluation may be conducted or managed by the Department of Transportation, Department of Rail and Public Transportation, or another qualified entity selected and/or approved by the Commonwealth Transportation Board.

2. The office shall be responsible for implementing the statewide prioritization ~~process~~ *processes* pursuant to § 33.2-214.1 *and § 33.2-372* for the Commonwealth Transportation Board.

3. The office shall work directly with affected Metropolitan Planning Organizations to develop and implement quantifiable and achievable goals relating to congestion reduction and safety, transit and HOV usage, job/housing ratios, job and housing access to transit and pedestrian facilities, air quality, and/or per-capita vehicle miles traveled pursuant to Chapters 670 and 690 of the 2009 Acts of Assembly.

4. For allocation of funds under Paragraph 1, the office may give a higher priority for planning grants to (i) regional organizations to analyze various land development scenarios for their long range transportation plans, (ii) local governments to revise their comprehensive plans and other applicable local ordinances to designate urban development areas pursuant to Chapter 896 of the 2007 Acts of Assembly and incorporate the principles included in such act, and (iii) local governments, regional organizations, transit agencies and other appropriate entities to develop plans for transit oriented development and the expansion of transit service. Such analyses, plans, and ordinances shall be shared with the regional planning district commission or metropolitan planning organization and the Commonwealth Transportation Board.

E.1. The Commonwealth Transportation Board is hereby authorized to apply for, execute, and/or endorse applications submitted by private entities or political subdivision of the Commonwealth 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.

F. 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.

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 Transportation Capital Projects Revenue Bonds which were authorized in a prior fiscal year but not issued, pursuant to Section 2 of Enactment Clause 2 of Chapter 896 of the 2007 General Assembly Session.

H. 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.

~~I. In programming funds for the reconstruction and rehabilitation of structurally deficient bridges pursuant to § 33.2-358 C.(i), Code of Virginia, the Commonwealth Transportation Board shall consider both state and locally-owned bridges.~~

J. All revenues generated under Chapter 896 of the Acts of Assembly of 2007 (HB 3202) and Chapter 766 of the Acts of Assembly of 2013 (HB 2313)*, Chapters 837 and 846 of the 2019 Acts of Assembly, and Chapters 1230 and 1275 of the 2020 Acts of Assembly* that were dedicated to transportation-related funds have been appropriated in conformity with the requirements of those respective chapters.

K. Notwithstanding § 33.2-502, Code of Virginia, the high-occupancy requirement for a HOT lane facility that is constructed as a result of the Public-Private Transportation Act (§ 33.2-1800 et. seq.) *(i)* with an initial construction cost in excess of $3 billion and whose operation, maintenance, or financing is not a result of the same comprehensive agreement that resulted in the facility's construction shall be not less than two~~.~~*, or (ii) that is located on the same Interstate corridor and partially located within the same urbanized areas.*

L. In recognition of the funds provided in subsection B 6 of Item 447.10, the Department of Rail and Public Transportation shall use $3,600,000 in the second year from the Transit Ridership Incentive Program for regional connectivity programs focused on congestion reduction and mitigation through provision of long-distance commuter routes. The Secretary shall provide to the Chairs of House Appropriations, Senate Finance and Appropriations, House Transportation and Senate Transportation Committees the methodology used and the distributions of such funds to transit systems by June 30, 2022.

M. It is the intent of the General Assembly that the Secretary of Transportation and the Secretary of Natural Resources, in consultation with the Chairs of the House Appropriations, Senate Finance and Appropriations, House Transportation, Senate Transportation, House Agriculture, Chesapeake and Natural Resources, and Senate Agriculture, Conservation and Natural Resources Committees, and counties containing subject outfalls, shall evaluate the scope of drainage outfalls across the Commonwealth originating from Virginia Department of Transportation (VDOT) maintained roads with no assigned maintaining entity, and recommend cost-effective solutions and means by which to fund maintenance of such outfalls. The Secretaries shall provide an interim report detailing their evaluation to the aforementioned committee chairs no later than December 31, 2020 and a final report of their findings, if not included in the December report, by September 30, 2021.

N. Prior to the execution of any Memorandum of Understanding on behalf of the Commonwealth of Virginia for participation in the construction of any potential improvements to the bridge and related railroad infrastructure located between the Rosslyn (RO) Interlocking near Long Bridge Park in Arlington, Virginia and the L'Enfant (LE) Interlocking near 10th Street SW in Washington, D.C., or prior to the authorization for the issuance of any bonds or the sale of any land by the Virginia Passenger Rail Authority, as may be established by legislation adopted by the 2020 Session of the General Assembly that becomes law, the Secretary of Transportation shall present, for their review, to the MEI Project Approval Commission established pursuant to Chapter 47 (§ 30-309 et seq.) of Title 30, a draft of any Memorandum of Understanding, any proposed bond issuance, or contract related to the sale of land, or the terms of any agreement between or among any political subdivision of the Commonwealth of Virginia, any political subdivision of the United States, federal government agency, the National Passenger Railroad

Corporation, a commuter rail service jointly operated by the Northern Virginia Transportation District established pursuant to § 33.2-1904 and the Potomac Rappahannock Transportation District established pursuant to the Transportation District Act (§ 33.2-1900 et seq.), and any Class I private railroad corporation.

O.1. Notwithstanding § 33.2-214, the Six-Year Improvement Program adopted June 19, 2019, and as amended shall remain in effect through June 30, 2021, or until a new Six-Year Improvement Program is adopted that is based on the official Commonwealth Transportation Fund revenue forecast reflecting the impacts of COVID-19 pandemic.

2. Notwithstanding any other provisions of law, the assistance provided for fiscal year 2021 under Item 442 A.1.a and A.1.c may be maintained up to the levels allocated in the Six Year Improvement Program approved by the Commonwealth Transportation Board on June 19, 2019 until a Six-Year Improvement Program is adopted pursuant to paragraph O.1. of this item.

P. It is the intent of the General Assembly that the Commonwealth Transportation Board shall take steps necessary to address the reduction in revenues available for the Commonwealth Transportation Fund pursuant to § 33.2-1524 , Code of Virginia, in a manner to reduce the impacts on currently programmed projects and to allow for a phased implementation of the additional revenues made available by Chapters 1230 and 1275 of the 2020 Acts of Assembly.

1. The Commonwealth Transportation Board may utilize Revenue Sharing Funds allocated to a project in fiscal year 2020 or previous fiscal years that is not currently needed to support the project based on the project's current schedule to increase the funding available to the Commonwealth Transportation Fund (CTF) for distribution to the funds and programs supported by the CTF to help mitigate the impacts of the reduced revenues resulting from COVID-19 and reflected in the August 2020 Official Revenue Forecast. Any project allocations utilized will be replaced in the year or years needed to maintain the project's current schedule, but no later than FY 2024, from funds made available pursuant to § 33.2-357, Code of Virginia.

2. The Commonwealth Transportation Board may utilize Revenue Sharing Funds provided in FY 2020 or prior fiscal years that were not allocated to a specific revenue sharing project as of June 30, 2020, to increase the funding available to the Commonwealth Transportation Fund (CTF) for distribution to the funds and programs supported by the CTF to help mitigate the impacts of the reduced revenues resulting from COVID-19 and reflected in the August 2020 Official Revenue Forecast.

3. The Commonwealth Transportation Board may utilize amounts allocated to a project through the State of Good Repair, High Priority Projects and District Grant Programs included in the FY2020-2025 Six-Year Improvement Program not needed in the year provided to support the project based on the project's current schedule to increase the funding available to the Commonwealth Transportation Fund (CTF) for distribution to the funds and programs supported by the CTF to help mitigate the impacts of the reduced revenues resulting from COVID-19 and reflected in the August 2020 Official Revenue Forecast. Any project allocations utilized shall be replaced in the year or years needed to maintain the project's schedule, provided that any funding shall be replaced no later than fiscal year 2025 from funds available in the Commonwealth Transportation Fund.

4. That notwithstanding enactment clauses 11 and 13 of Chapters 1230 and 1275 of the 2020 Acts of Assembly, the Commonwealth Transportation Board (i) shall take actions deemed necessary in fiscal years 2021, 2022 and 2023 to ensure appropriate coverage ratios for any outstanding debt backed by the Transportation Trust Fund and (ii) shall distribute available funds, taking into consideration the impacts of the reduced revenues resulting from COVID-19 and reflected in the August 2020 Official Revenue Forecast, to the modal programs and the highway maintenance and operating fund in such a manner as to protect core programs, services, and existing projects, and to provide funding for the purposes set forth in §§ 33.2-372 and 33.2-373, Code of Virginia.

5. The Commonwealth Transportation Board may for fiscal year 2021 reduce the funding available pursuant to subdivisions D 2, D 4 and D 5 of § 33.2-1526.1, Code of Virginia, to increase the funding available for the purposes

of subdivision D 1 and D 3 of § 33.2-1526.1, Code of Virginia.

6. The Secretary shall report to the Governor and Chairs of the House Appropriations and Senate Finance and Appropriations Committees on the funding actions planned to be taken under the authority provided by P.1. through 5. of this item, as well as any actions taken pursuant to language included in Item 444.B of this act, within five [5] business days following the presentation of such proposed actions to the Commonwealth Transportation Board. The reporting shall include a listing of the programs and projects impacted, identifying the amount and timing of the use and subsequent replacement of project allocations as required to maintain project schedules. Furthermore, within five [5] business days of a subsequent meeting of the Commonwealth Transportation Board in which official action related to the proposed funding actions is taken, the Secretary shall report to the Governor and Chairs of the House Appropriations and Senate Finance and Appropriations Committees the funding actions approved by the Commonwealth Transportation Board, denoting any changes from the previously reported proposed funding actions. Furthermore, in order to ensure the General Assembly has the opportunity to express its disapproval of any proposed funding shifts, no changes to project allocations shall be made at the same meeting at which they are proposed, but shall be delayed until the subsequent meeting of the Commonwealth Transportation Board.

Q. It is the intent of the General Assembly that state funds in the Commonwealth Transportation Fund and federal funds provided on a recurring, non-one-time basis, for surface transportation be distributed and allocated at the discretion of the entities responsible for such funds based on the policy direction and requirements set forth in the Code of Virginia.

R. Notwithstanding the provisions of § 33.2-3603, Code of Virginia, the I-81 Advisory Committee shall be required to meet at a minimum of two times a year, with additional meetings called at the discretion of the Chair.