2023 Special Session I

Budget Bill - HB6001 (Chapter 1)

Bill Order » Office of Transportation » Item 434

Secretary of Transportation

Item 434	First Year - FY2023	Second Year - FY2024
Administrative and Support Services (79900)	**$1,023,114**	**$1,023,114**
General Management and Direction (79901)	$1,023,114	$1,023,114
Fund Sources:		
Commonwealth Transportation	$1,023,114	$1,023,114

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, 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 451. 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 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. 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.

J. 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.

K. 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.

L. 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.