



# 2011 General Assembly Session

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## 2011 General Assembly

- **2692 bills were introduced this session**
- **VDOT tracked 226 bills**
- **Transportation legislative package included:**
  - **23 pieces of legislation, 12 were Governor's bills:**
    - 20 passed
      - Two Transportation Funding bills
      - Six Code clean-up bills
      - Four bills which promote government efficiency and streamline processes
      - Eight Omnibus bills

## Governor's Bills

### Chapter 400 – Local Roads

- Amends § 33.1-23.3 to provide that a municipality may decide to assume the responsibility for its construction program by notifying the Commonwealth Transportation Board (CTB) by December 31, for implementation the following fiscal year.
- Amends § 10.1-603.8 to provide that routine maintenance includes the paving of an existing road with a compacted or impervious surface and reestablishment of existing associated ditches and shoulders.
- Amends § 33.1-70.1 to provide that any road designated as a Rural Rustic Road shall be subject to § 10.1-603.8.
- Amends § 33.1-70.2 to eliminate the requirement for a local governing body to hold a public hearing when provided notice that VDOT plans an emergency paving of a secondary road within the locality; and to require that the local governing body provide concurrence or other recommendation to the Commissioner within 72 hours of VDOT providing such notice.

## Chapter 36/ Chapter 152 – Commonwealth Transportation Commissioner

- Amends the necessary sections of the *Code* to change the Commonwealth Transportation Commissioner's title to Commissioner of Highways.
- Amends § 33.1-8 to eliminate the requirement that the Commissioner employ an assistant commissioner for the environment, transportation planning, and regulatory affairs.
- Amends §§ 33.1-34, 33.1-35, 33.1-148, 33.1-150, and 33.1-155 to allow the VDOT Commissioner to transfer, abandon, and discontinue roads in and among the primary and secondary systems of state highways when such actions are recommended as appropriate by the Chief Engineer in connection with the completion of a construction or maintenance project.
- Amends §§ 33.1-149 and 33.1-154 to eliminate the requirement that the CTB must declare excess right of way as surplus before VDOT may sell the land.
- Adds § 33.1-13.03 and repeals §§ 33.1-13.01 and 33.1-13.02 allowing VDOT to submit one comprehensive report focusing on VDOT operations and services.

## Chapter 104/ Chapter 164 – Powers of the CTB

- Amends § 33.1-12 to:
  - clarify that the CTB does not need to approve the location of local roads, urban highways, and local roads in any county that has resumed full responsibility for all the secondary system of highways within its boundaries pursuant to the provisions of § 33.1-84.1 as these are part of the locally maintained system and not part of the state system.
  - increases the limitation on the value of contracts the VDOT Commissioner and the Director of DRPT may let from \$2 million to \$5 million.
  - explicitly states that localities, authorities and transportation districts administering projects pursuant to agreement with VDOT or DRPT are allowed to let contracts without concurrence of the VDOT Commissioner, the DRPT Director, or the CTB within their jurisdiction in accordance with those provisions of *Code* providing localities, authorities and transportation districts authority to let such contracts.
  - eliminate the provision that the CTB may regulate outdoor theaters.

## Chapter 104/ Chapter 164 – Powers of the CTB (cont.)

- Amends § 33.1-23.03 to provide that the Statewide Transportation Plan be updated every four years, rather than the current five year schedule.
  - Also, specifically provides that next plan shall be updated and presented to the Governor and General Assembly no later than December 1, 2013, and the subsequent plan no later than December 1, 2015.
- Repeals § 33.1-21 which provides that the CTB may designate and appoint any or all of the employees of the Board as special policemen, with the powers of a sheriff, to enforce the rules and regulations of the CTB.
  - The CTB no longer enforces traffic rules and regulations.

## **Chapter 40/ Chapter 48 – Inmates at Rest Areas**

- Allows for persons sentenced to the Department of Corrections (DOC) to be used for the maintenance of rest areas, provided such maintenance activities are approved by DOC and VDOT taking into account the safety of the traveling public.

## Chapter 830/ Chapter 868– Transportation Funding

- Creates the Virginia Infrastructure Bank managed and administered pursuant to a management agreement with the Virginia Resources Authority, the Secretary of Finance and the CTB.
- Authorizes the CTB to issue up to \$1.2 billion in Grant Anticipation Revenue Notes (GARVEES) to help pay for projects as designated by the CTB.
- Authorizes the CTB to issue Transportation Capital Projects Revenue Bonds, not to exceed \$3 billion provided the aggregate principal amount issued in one fiscal year shall not exceed \$300 million. This does not apply to fiscal years ending June 30, 2012 and June 30, 2013 – annual limitation increased by \$200 million and \$300 million respectively.
- Changes revenue sharing program:
  - Increases the maximum state match from \$1 million to \$10 million.
  - Removes the priority levels that were established for project allocation.
  - Increases the maximum state allocation to the program from \$50 million to \$200 million.



## Chapter 493/ Chapter 434 – Fees and Rates

- Amends § 17.1-276 to exempt VDOT and DRPT from paying any fee for remote access to land records.
  - The potential cost savings to the agencies would be about \$160,800 per year, considerably reducing the costs to research and close right of way acquisitions.
- Amends § 33.1-41.1 to establish that VDOT recommend to the CTB an annual rate to be used by VDOT to make payments for maintenance computed using the base rate of growth planned for the Department's Highway Maintenance and Operations Program; deletes references to the statewide maintenance cost index, the base lane per mile rate and fund allocations.

## Chapter 493/ Chapter 434 – Fees and Rates

- Amends § 33.1-70.01 to ensure the payback provisions specified are available to VDOT if a locality chooses to cancel a project in the six-year plan after approval of the location and design.
  - This proposal will allow VDOT to treat counties in the same manner as cities are treated, pursuant to § 33.1-44 of the *Code*, when projects are cancelled.
- Amends § 33.1-330 to eliminate the requirement of refunding bonds anytime within three years of the date of maturity. Federal law limits bonds issued after 1986 to a one-time refunding.
  - A one-time refunding could occur at any time, when savings can be realized.

## Chapter 555 – Procurement

- Amends § 2.2-4301 to:
  - increase the duration of terms for contracts concerning environmental location, design and inspection work on highways and bridges to one initial term of two years, and leave the current option to renew the contract for two additional one-year terms unchanged.
  - clarify that the sum of all projects in each term is not to exceed \$5 million.
  - An enactment clause was added to state that the Commissioner shall appoint a committee to review performance and payment bonding requirements and make recommendations to the Commissioner regarding any changes by December 1, 2011.

## VDOT Bills

### Chapter 335 – Eminent Domain Waiver Appraisal

- Changes the maximum limit on waiver of appraisals for real property being acquired by a state agency from \$10,000 to \$25,000, consistent with Federal regulations.

### Chapter 620 – Bridge Vertical Clearance Signs

- Clarifies that the Commissioner's responsibility for posting restricted vertical clearance applies only to bridges on roads under the Commissioner's jurisdiction. Localities are responsible for signing roads maintained by the locality.

### Chapter 60 – Right to Enter Land for Transportation Purposes

- Removes the requirement that notice of intent to enter be sent by certified mail.

### Chapter 68 – Golf Carts

- Fixes a punctuation error to clarify exceptions for use of golf carts and utility vehicles.

### **Chapter 428 – Marine Museums**

- Repeals § 33.1-220 which authorizes the CTB to cooperate with the person who may establish a marine museum in some county in the Commonwealth adjoining a city located on navigable water, with a population of 30,000 or more.
- The museum has been established.

### **Chapter 429 – Donation of Capital Stock of Turnpike or Ferry Corporations**

- Repeals § 56-51.1 to remove the allowance for the donation of capital stock from turnpike or ferry corporations to the CTB or the political subdivisions in which it is located.
- Language not needed because Virginia does not have any turnpike or ferry corporations.

## **Chapter 600 – State and Municipal Turnpike Projects**

- Repeals §§ 33.1-296 – 33.1-317. Currently authorizes CTB to construct, maintain, repair and operate turnpike projects and issue turnpike revenue bonds payable solely from the toll on the turnpike and revenues pledged for their payment.
- Repeals § 33.1-318. Currently, authorizes cities and towns to charge or collect tolls for transit over streets, roads, bridges or tunnels constructed to connect to state turnpike projects.
- Code sections never used.

## **Chapter 430 – I-66 Economic Development Program**

- Repeals §§ 33.1-221.1 and 33.1-221.1:6 because they are no longer necessary since revenues have never been appropriated to construct the improvements listed in the language.
- Code sections previously created to fund Disney's America Project.

## Budget Amendments

### Item 452 #1c – Revenue Sharing

- Corrects the funding level of the VDOT Revenue Sharing Program to reflect changes to the program size that were adopted pursuant to HB 2527/SB 1446. The CTB shall determine the funding amount, not less than \$15 million and not to exceed \$200 million.

### Item 452 #2c – Virginia Infrastructure Bank

- Reduces the general fund amount proposed to be deposited into the Bank from \$150 million to \$32.7 million.
- Secretary of Transportation shall provide a plan (to Governor and Chairmen of House Appropriations, Senate Finance, and Transportation Committees) identifying any specific project or program balance to be transferred to the Bank as well as the corresponding funding source.

### Item 469 #6 c – State Employees

- Requires state employees to pay 5% towards their retirement effective June 25, 2011, and provides a 5% salary offset concurrently.

# Eminent Domain

## Chapter 117/ Chapter 190 – Eminent Domain Procedures

- Requires that all entities that have power of eminent domain to provide a copy of all appraisals performed prior to making the initial offer to the landowner.
- Modifies the requirements of disposing of residue/surplus properties.
- Must provide the landowner with a written statement describing the public use that provides the basis of the acquisition and certify that the acquisition has been reviewed by the condemnor for purposes of complying with § 1.219.1.

## HJR 693 – Taking or Damaging of Private Property (Constitutional Amendment)

- Prohibits the General Assembly from passing a law whereby private property shall be damaged or taken except for public use.
- No private property may be taken for public use without just compensation to the owner.
- No more private property may be taken than necessary to achieve the stated public use.
- Just compensation shall be no less than the value of the property taken, lost profits and lost access, and damages to the residue caused by the taking. Lost profits and lost access to be further defined by the General Assembly.
- Taking or damaging of property is not for a public use if primary use is for private gain, private benefit, private enterprise, increasing jobs, increasing tax revenue, or economic development.
- The condemnor bears the burden of proving that the use is public, without presumption that it is.



## Highways

### Chapter 471 – Traffic Lights

- Allows motorcycle or moped drivers or bicycle riders to proceed through an intersection on a steady red light only if the driver or rider comes to a full and complete stop at the intersection for two complete cycles of the traffic light or for two minutes.

### Chapter 476 – Noise Abatement Practices and Technologies

- Amends 33.1-223.2:21 to replace the word “landscaping” with “vegetative screening, such as the planting of appropriate conifers.”

### Chapter 129 – Discontinued Secondary System Highways

- Provides that a highway that has been discontinued as a secondary highway system shall continue to be available for use by the public as a road, unless it has been abandoned or its use has been modified. Codifies existing case law.

## Land Use

### Chapter 647 – Traffic Impact Analysis

- Eliminates requirement to submit subdivision and site plans for TIA and requires VDOT to revise its regulations to eliminate the requirement for submission of subdivision plats, site plans or plans of development to VDOT, effective no later than December 31, 2011.

### SB 1221 – Local Rezoning Actions

- Provides more limited review by VDOT when property being considered for rezoning has already been subject to a VDOT review in connection with development of a local comprehensive plan.

### Chapter 870 – VDOT Regulations

- Requires VDOT or the CTB to review and adopt any appropriate revisions (effective January 1, 2012) to the following regulations:
  - Traffic Impact Analysis Regulations
  - Secondary Street Acceptance Regulation
  - Access Management Regulations, related to entrances to family subdivisions

## Office of the Inspector General

### Chapter 798/ Chapter 871 – Office of the Inspector General

- Establishes the Office of the State Inspector General to investigate complaints alleging fraud, waste, abuse, or corruption by a state agency, nonstate agency, officers, or employees.
- The Office of the Inspector General for the Department of Transportation will be consolidated into this office.
- Effective July 1, 2012.

## Overweight Vehicles

### Chapter 331 – Farm Machinery and Agricultural Multipurpose Drying Units

- Clarifies existing Code language on these vehicles and specifically prohibits the operation of overweight farm machinery or agricultural multipurpose drying units on any interstate highway system component when axle and gross weights are over certain amounts.

### Chapter 793 – Overweight Vehicle Fees

- Requests the DMV Commissioner, in consultation with the VDOT Commissioner, the Executive Director of the Virginia Port Authority, the Virginia Trucking Association and a representative from the heavy equipment industry, to develop a uniform system of permitting for overweight and oversize vehicles and a comprehensive, tiered schedule of fees for overweight vehicles.
- Fee structure shall be presented to the Joint Commission on Transportation Accountability by December 15, 2011.

## PPTA

### **Chapter 568/ Chapter 633 – Patriots Crossing (Third Crossing) Project**

- Requires VDOT to accept for review unsolicited proposals for development and operations of the Patriots Crossing project.
- Upon enactment, VDOT shall make available on its website any and all information about the proposed Patriots Crossing project.
- No later than May 1, 2012, VDOT shall make a recommendation to a steering committee whether to advance development of the Patriots Crossing project.
- No later than September 1, 2012, the steering committee shall make a recommendation to the VDOT Commissioner whether to advance development of the Patriots Crossing project.

## Property Conveyance

### Chapter 256/ Chapter 309 – Mennel Milling Company

- Authorizes DGS to convey real property to the Mennel Milling Company located in Roanoke County. The property is in exchange for 3 parcels of land for use by VDOT for an area maintenance headquarters to serve the southwest portion of Roanoke County.

## Reports/Studies

### Chapter 790 – Quiet Pavement Technology

- Requires VDOT to expedite the development of quiet pavement technology such that applicable contract solicitations for paving shall include specifications for quiet pavement technology and other sound mitigation alternatives in any case in which sound mitigation is a consideration.
- VDOT shall provide an interim report by June 30, 2012 and a final report by June 30, 2013 to the Governor and General Assembly.

### SJR 292 – U.S. Route 1 Corridor Study

- Requests DRPT to evaluate the level of study necessary to identify and advance potential public transportation services to Fort Belvoir in Fairfax County and the Marine Corps Base at Quantico.
- DRPT shall submit a report to the Governor and General Assembly by the first day of the 2012 General Assembly session.

## Speed Limits

### Chapter 91 – Speed Limits in Virginia Beach

- Allows the City of Virginia Beach to increase or decrease the speed limits on any highway within its jurisdiction except the Interstate Highway System.
- Authorizes the City of Virginia Beach to establish and indicate variable speed limits on structures or roadways to be effective under conditions that would warrant variable speed limits: darkness, traffic conditions, atmospheric conditions, weather emergencies.

### Chapter 182 – Speed Limits

- Allows municipalities that maintain their own roads to increase or decrease speed limits on highways over which they have jurisdiction following an appropriate traffic engineering investigation.



# Tolls

## Chapter 736 – Toll Violation Notice

- Sets out the procedures for the issuance of toll violation notices.
- Photo Enforcement and Automatic Vehicle Identification Systems (§ 46.2-819.1) and Traditional Toll Booths (§ 46.2-819.3)
  - Authorizes administrative fee after first unpaid toll (not to exceed \$25 if paid within 30 days).
  - Codifies pre-trial settlement option to reduce court cases.
  - Allows for denial of vehicle registration after court finding of 2 or more unpaid tolls with nonpayment.
- Video Enforcement (§ 46.2-819.3:1)
  - Allows for denial of vehicle registration after court finding of 2 or more unpaid tolls with nonpayment.
  - Enables toll facility operator to place vehicle registration hold without going to court if violation not contested or paid; if contested, proceeds to court.
  - Codifies pre-trial settlement option to reduce court cases.