



COMMONWEALTH of VIRGINIA

Commonwealth Transportation Board

Aubrey L. Layne, Jr.
Chairman

1401 East Broad Street
Richmond, Virginia 23219

(804) 786-2701
Fax: (804) 786-2940

Agenda item # 10

RESOLUTION **OF THE** **COMMONWEALTH TRANSPORTATION BOARD**

June 14, 2016

MOTION

Made By: Ms. Valentine, Seconded By: Mr. Whitworth
Action: Motion Carried, Unanimously As Amended

Title: Six-Year Improvement Program and Rail and Public Transportation Allocations For **Fiscal Years 2017 - 2022**

WHEREAS, Section 33.2-214 (B) of the *Code of Virginia* requires the Commonwealth Transportation Board (Board) to adopt by July 1 of each year a Six-Year Improvement Program (Program) of anticipated projects and programs and that the Program shall be based on the most recent official revenue forecasts and a debt management policy; and

WHEREAS, the Appropriation Act authorizes the Secretary and all agencies within the transportation secretariat to take all actions necessary to ensure that federal transportation funds are allocated and utilized for the maximum benefit of the Commonwealth; and

WHEREAS, the Board is required by Section 33.2-214 (B) and 33.2-221 (C) of the *Code of Virginia* to administer and allocate funds in the Transportation Trust Fund; and

WHEREAS, the Board is required by Section 33.2-221 (C) of the *Code of Virginia* to ensure that total funds allocated to any highway construction project are equal to total project expenditures within 12 months following completion of the project; and

WHEREAS, Section 58.1-638(A)(4) of the *Code of Virginia* authorizes the Board to allocate funds for mass transit in accordance with the statutory formula set forth therein; and

WHEREAS, Section 58.1-1741 of the *Code of Virginia* sets aside funds for the Rail Enhancement Fund for capital improvements of railways; and

WHEREAS, Section 33.2-1601 of the *Code of Virginia* authorizes the Board to allocate funds from the Rail Enhancement Fund in accordance with Board established policies and procedures; and

WHEREAS, Section 33.2-1602 of the *Code of Virginia* authorizes the Board to allocate funds from the Shortline Railway Preservation and Development Fund in accordance with Board established policies and procedures; and

WHEREAS, Section 33.2-1600 of the *Code of Virginia* requires the Board to administer and spend or commit such funds necessary for constructing, reconstructing, or improving industrial access railroad tracks and related facilities; and

WHEREAS, Section 33.2-1603 of the *Code of Virginia* creates a nonreverting fund known as the Intercity Passenger Rail Operating and Capital Fund, which is considered a special fund within the Transportation Trust Fund, and consists of funds designated pursuant to Section 58.1-638.3 (A) (2) of the *Code of Virginia* (effective July 1, 2013) and funds as may be set forth in the appropriation act and by allocation of funds for operations and projects by the Board in accordance with Section 33.2-358; and

WHEREAS, Section 33.2-214.1 of the *Code of Virginia*, requires the Board to implement a prioritization process, and effective July 1, 2015, as set forth herein, Chapter 684 of the 2015 Acts of Assembly (HB 1887) modified section 33.2-358 and requirements relating to the allocations to be made by the Board pursuant thereto; and

WHEREAS, Section 33.2-358 of the *Code of Virginia* requires the Board to allocate funds for maintenance on the Interstate, Primary, Urban and Secondary Highway Systems; and

WHEREAS, Section 33.2-358 of the *Code of Virginia* requires the Board to allocate up to \$500 million in funds until July 1, 2020 for bridge reconstruction and rehabilitation; advancing high priority projects; reconstructing deteriorated Interstate, primary and primary extension pavements; projects undertaken pursuant to the Public-Private Transportation Act; paving or improving unpaved highways; and the Innovation and Technology Transportation Fund; and

WHEREAS, Section 33.2-358 of the *Code of Virginia* requires the Board to allocate any funds not allocated to a project in the Six-Year Improvement Program to the High-Priority Projects Program established pursuant to Section 33.2-370 and the highway construction District Grant Programs established pursuant to Section 33.2-371; and

WHEREAS, Section 33.2-358 of the *Code of Virginia* requires the Board to allocate funds on and after July 1, 2020 for state of good repair purposes as set forth in Section 33.2-369, the High-Priority Projects Program established pursuant to Section 33.2-370, and the highway construction District Grant Programs established pursuant to Section 33.2-371; and

WHEREAS, paragraph J of Item 453 of Chapter 780 of the 2016 Acts of Assembly, directs, notwithstanding the provisions of Section 33.2-358 of the *Code of Virginia*, the unanticipated amounts available for construction from the December 2015 revenue forecast and from the increased federal funding from the passage of the Fixing America's Surface Transportation (FAST) Act to be distributed following the new construction formula defined by Section 33.2-358 of the *Code of Virginia*, to the State of Good Repair Program, the High-Priority Projects Program, and the District Grant Program; and

WHEREAS, the Draft Six-Year Improvement Program for Fiscal Years 2017 through 2022 accounts for and includes allocations to projects selected through the Project Prioritization Process in accordance with the requirements of Section 33.2-214.1, Chapter 684, and the Commonwealth Transportation Board's Policy and Guidelines for Implementation of a Project Prioritization Process; and

WHEREAS, the Final Six-Year Improvement Program for Fiscal Years 2017 through 2022 accounts for and includes allocations to projects selected for funding through the State of Good Repair Project Prioritization Process in accordance with the requirements of Section 33.2-369, established pursuant to Chapter 684; and

WHEREAS, the Draft Six-Year Improvement Program for Fiscal Years 2017 through 2022 was made available for review and comments; and

WHEREAS, nine public meetings were held on March 28, 2016 in Abingdon, April 5, 2016 in Roanoke, April 12, 2016 in Culpeper, April 18, 2016 in Lynchburg, April 21, 2016 in Colonial Heights, May 2, 2016 in Fairfax, May 10, 2016 in Fredericksburg, May 12, 2016 in Chesapeake, and May 16, 2016 in Weyers Cave, to receive public comments prior to the Board's adoption of the Final Six-Year Improvement Program; and

WHEREAS, the Board recognizes that all projects, whether public transportation, rail or highway, are appropriate for the efficient movement of people and freight and, therefore, for the common good of the Commonwealth; and

WHEREAS, after due consideration the Board has now developed a Final Fiscal Years 2017 through 2022 Six-Year Improvement Program.

NOW THEREFORE BE IT FURTHER RESOLVED, by the Commonwealth Transportation Board that the allocations of construction funds provided by 33.2-358, Maintenance and Operations funds, and Rail and Public Transportation funds in the Final Six-Year Improvement Program for Fiscal Years 2017 through 2022 are approved; and

BE IT FURTHER RESOLVED, by the Commonwealth Transportation Board that the Six-Year Improvement Program of projects and programs for Fiscal Years 2017 through 2022 for Interstate, Primary and Urban Highway Systems, and Rail and Public Transportation are approved; and

BE IT FURTHER RESOLVED, by the Commonwealth Transportation Board that the Commissioner of Highways and the Director of the Department of Rail and Public Transportation are authorized to enter into agreements for respective programmed projects for Fiscal Year 2017 and prior within the Six-Year Improvement Program satisfactory to the Commissioner or the Director; and

BE IT FURTHER RESOLVED, by the Commonwealth Transportation Board that the transfers of previous allocations necessary to maximize the use of federal transportation funds as reflected in the Six-Year Improvement Program of projects and programs for Fiscal Years 2017 through 2022, are approved; and

BE IT FURTHER RESOLVED, by the Commonwealth Transportation Board that the Commissioner, or his designee, is granted the authority to make transfers of allocations programmed to projects in the approved Six-Year Improvement Program of projects and programs for Fiscal Years 2017 through 2022 to release funds no longer needed for the delivery of the projects and to provide additional allocations to support the delivery of eligible projects in the approved Six-Year Improvement Program of projects and programs for Fiscal Years 2017 through 2022 consistent with Commonwealth Transportation Board priorities for programming funds, federal/state eligibility requirements, and according to the following thresholds based on the recipient project:

Total Cost Estimate	Threshold
<\$5 million	up to a 20% increase in total allocations
\$5 million to \$10 million	up to a \$1 million increase in total allocations
>\$10 million	up to a 10% increase in total allocations up to a maximum of \$5 million increase in total allocations

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BE IT FURTHER RESOLVED, that the Director of the Department of Rail and Public Transportation, and after consultation with the Commonwealth Transportation Board member for the district, is authorized up to \$200,000 to reallocate funds among existing grants, to allocate additional funds to existing projects up to \$200,000 per grant, and to award additional federal and state funds for rail and public transportation projects up to \$200,000, and to deobligate funds from projects, as may be necessary to meet the goals of the Board; further, the Director is authorized to make changes to the scope of a Board approved grant as needed in order to accomplish the intended project and/or outcome; and

BE IT FURTHER RESOLVED, that the Commissioner and Director shall notify the Board on a monthly basis should such transfers or allocations be made; and

BE IT FURTHER RESOLVED, that if such request for transfer of allocation exceeds the thresholds established herein, the Commissioner and Director shall bring such request to the Board on a monthly basis for their approval prior to taking any action to record or award such action.

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CTB Decision Brief

Revised Six-Year Improvement Program and Rail and Public Transportation Allocations for Fiscal Years 2017 - 2022

Issue: Each year the Commonwealth Transportation Board (CTB) must adopt a Six-Year Improvement Program (Program) and allocations for anticipated projects and programs based on the most recent official revenue forecasts and debt management policy, and other funds available as set forth in the Final Fiscal Years 2017-2022 Six-Year Improvement Program in accordance with policy or statutory formula.

Facts: The CTB must adopt a Six-Year Improvement Program of anticipated projects and programs by July 1st of each year in accordance with Section 33.2-214 (B). The Program shall be based on the most recent official revenue forecasts and debt policy. The CTB adopted the Fiscal Years 2016-2021 SYIP on June 17, 2015. Section 33.2-214.1 of the *Code of Virginia* requires the CTB to implement a prioritization process and effective July 1, 2015, Chapter 684 of the 2015 Acts of the Assembly (House Bill 1887) modified section 33.2-358 and requirements relating to the allocations made by the CTB. The Final Fiscal Years 2017-2022 Six-Year Improvement Program includes allocations programmed to projects selected through the first round of the Project Prioritization Process established pursuant to section 33.2-214.1 and in conformity with Section 33.2-358. Additionally, the Final Fiscal Years 2017-2022 Six-Year Improvement Program includes allocations programmed to projects selected through the first round of the State of Good Repair Project Prioritization Process established pursuant to Section 33.2-369 as enacted by Chapter 684.

In October 2015, the CTB approved a resolution granting the Commissioner of Highways, or his designee, the authority to make administrative adjustments of allocations programmed to projects necessary to release allocations no longer needed for the delivery of the project and to address estimate increases within the rescoring thresholds defined in the Board's Policy and Guidelines for Implementation of a Project Prioritization Process within the same HB2 solicitation cycle without action by the Board. The Board shall receive a report on a monthly basis regarding any such transfers.

Recommendations: The Virginia Department of Transportation (VDOT) recommends the adoption of the Program and that authority be granted to the Commissioner of Highways, or his designee, to make transfers of allocations programmed to projects in the approved Program to release funds no longer needed for the delivery of the projects and to provide additional allocations to support the delivery of eligible projects in the approved Program consistent with Commonwealth Transportation Board priorities for programming funds, federal/state eligibility requirements, and according to the following thresholds based on the recipient project:

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Total Cost Estimate	Threshold
<\$5 million	up to a 20% increase in total allocations
\$5 million to \$10 million	up to a \$1 million increase in total allocations
>\$10 million	up to a 10% increase in total allocations up to a maximum of \$5 million increase in total allocations

This framework aligns the authority currently provided to the Commissioner of Highways regarding adjustments of allocations on projects selected for funding through the statewide prioritization process to other projects in the program and establishes a consistent process for transfers.

The Department of Rail and Public Transportation (DRPT) recommends adoption of the Rail and Public Transportation allocations for the Final Six-Year Improvement Program for Fiscal Years 2017 through 2022 and that authority be granted to the Director of DRPT and after consultation with the CTB member for the district, to reallocate up to \$200,000 among existing grants, to allocate additional funds to existing projects up to \$200,000 per grant, and to award additional federal and state funds for rail and public transportation projects up to \$200,000, and to deobligate funds from projects, as may be necessary to meet the goals of the Board; further, the Director is authorized to make changes to the scope of a Board-approved grant as needed in order to accomplish the intended project and/or outcome.

The CTB shall receive a report on a monthly basis regarding any such transfers.

If a request for a transfer of allocation exceeds the thresholds above, the Commissioner and Director shall bring such request to the Board on a monthly basis for their approval prior to taking any action to record or award such action.

Action Required by CTB: The CTB will be presented with a resolution for a formal vote to adopt the Six-Year Improvement Program of Construction funds, Maintenance and Operations funds, and Rail and Public Transportation funds for Fiscal Years 2017 through 2022, including approval of the transfers of previous allocations completed as part of the update. The resolution will include authorization for the Commissioner or his designee to make transfers of allocations programmed to projects in the approved Six-Year Improvement Program of projects and programs for Fiscal Years 2017 through 2022 necessary to release funds no longer needed for the delivery of the projects and to apply said funds to projects in the approved program needing funds consistent with Commonwealth Transportation Board priorities for programming funds, federal/state eligibility requirements, and according to the thresholds identified above.

In addition, the resolution will include approval of the Rail and Public Transportation Six-Year Improvement Program and allocations for Fiscal Years 2017 through 2022 and authority granted to the Director of DRPT, and after consultation with the CTB member for the district, to reallocate up to \$200,000 among existing grants, to allocate additional funds to existing projects up to \$200,000 per grant, and to award additional federal and state funds for rail and public

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transportation projects up to \$200,000, and to deobligate funds from projects, as may be necessary to meet the goals of the Board; further, the Director is authorized to make changes to the scope of a Board approved grant as needed in order to accomplish the intended project and/or outcome.

Options: Approve, Deny, or Defer.

Public Comments/Reactions: Given the need to have allocations available to continue and/or initiate projects and programs in the Program and Rail and Public Transportation allocations, the public expects the CTB to fulfill its statutory duty by approving the Six-Year Improvement Program and Rail and Public Transportation allocations for Fiscal Years 2017 through 2022.