



## COMMONWEALTH of VIRGINIA

### Commonwealth Transportation Board

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*Agenda Item # 11*

### RESOLUTION OF THE COMMONWEALTH TRANSPORTATION BOARD

September 20, 2023

#### MOTION

**Made By:** Ms. Sellers, **Seconded By:** Ms. Hynes,  
**Action:** Motion Carried, Unanimously

#### **Title: Policy and Guidelines for Implementation of Funding for the Virginia Railway Express (VRE)**

**WHEREAS**, the Commonwealth Transportation Board (CTB), the Northern Virginia Transportation Commission (NVTC), and the Potomac and Rappahannock Transportation Commission (PRTC) are mutually interested in the success of the Virginia Railway Express (VRE); and

**WHEREAS**, VRE was established to provide commuter-oriented rail service from the Northern Virginia suburbs to Alexandria, Crystal City, and downtown Washington, D.C., along the I-66 and I-95 corridors; and

**WHEREAS**, NVTC and PRTC jointly own VRE; and

**WHEREAS**, NVTC was established to manage and control the functions, affairs, and property of the Northern Virginia Transportation District, and PRTC is a multi-jurisdictional agency representing Prince William, Spotsylvania and Stafford Counties and the cities of Manassas, Manassas Park and Fredericksburg; and

**WHEREAS**, Section 33.2-1526.1 (D)(3) of the *Code of Virginia*, pursuant to the 2023 Virginia Acts of Assembly, restructures the Commonwealth Mass Transit Fund so that up to 3.5 percent of its funds may be annually allocated to NVTC for distribution to VRE for capital purposes and operating assistance; and

**WHEREAS**, Section 33.21-1526.1 (D)(3) of the *Code of Virginia* directs the Board to establish service delivery factors to determine the amount of funds delivered annually to VRE; and

**WHEREAS**, Section 33.2-1526.1(D)(3) of the *Code of Virginia* directs any funds not

delivered to VRE to be used for statewide transit capital purposes as outlined in Section 33.2-1526.1 (D)(2) of the *Code of Virginia*; and

**WHEREAS**, the 2023 Virginia Acts of Assembly requires the Commonwealth Transportation Board to withhold funding available to VRE pursuant to Section 33.2-1526.1(O) of the *Code of Virginia* Allocation under the following conditions: beginning in Fiscal Year 2024, the CTB shall withhold 20 percent of the funds available each year unless VRE submits a detailed annual operating budget and any proposed capital expenditures and projects for the following fiscal year by February 1 of each year; and

**WHEREAS**, it is in the best interest of the CTB, NVTC, and PRTC to ensure that VRE receives the full allocation of funding from the Commonwealth Mass Transit Fund.

**NOW THEREFORE LET IT BE RESOLVED**, the Board hereby directs the Director of the Department of Rail and Public Transportation to take all actions necessary to implement and administer this policy.

**BE IT FURTHER RESOLVED** that the Board hereby adopts the following policy to govern future Board decisions related to funding for VRE as enacted by the General Assembly of Virginia in 2023:

**Service Delivery Factors**

The CTB shall use the following service delivery factors, which are divided into three categories, to determine the amount of funds delivered to VRE annually from the 3.5 percent of annual revenues for capital and operating expenses.

1. Ridership:
  - a. Annual Change in Ridership: percentage change in Unlinked Passenger Trips year-to-year.
  - b. Annual Change in Passengers Per Mile: percentage change in Unlinked Passenger Trips divided by Vehicle Revenue Miles year-to-year.
2. Cost Efficiency
  - a. Cost Per Passenger: Audited Operating Expense (from previous fiscal year) divided by Ridership.
3. System Reliability and Safety
  - a. On-time performance: annual percentage of trains arriving at their destination within five minutes of the schedule.
  - b. Mean Distance between Major Mechanical Failures: annual vehicle revenue miles divided by number of major mechanical failures compared year-to-year.
  - c. Fatalities and Injuries: annual number of preventable fatalities and injuries.

**Submission of a Detailed Annual Operating Budget**

1. The CTB shall withhold funding if VRE has not prepared and submitted a detailed annual operating budget and any proposed capital expenditures and projects for the following fiscal year to the CTB by February 1 of each year.
2. The annual operating budget submitted by VRE to the CTB shall include information on expenditures, indebtedness, pensions, and other liabilities, and other information as prescribed by the CTB.

**Resolution of Withholding of Funds**

1. The CTB will release any withheld funding upon approval or implementation of an approved mitigation action.
2. The CTB will determine what constitutes an approved mitigation action.
3. The CTB shall retain as a penalty any funding withheld during a fiscal year in response to a violation for which there is no mitigation.

**Additional Considerations**

1. The CTB, DRPT, VRE, the NVTC, and the PRTC shall proactively collaborate to avoid activities that would require the CTB to withhold funding.
2. VRE shall submit the documents required to demonstrate compliance to DRPT by the deadlines specified. DRPT will analyze the information received from VRE and present to the CTB, in April of each year, a recommendation on enforcement actions, if any, that are required to be taken under this policy.
3. The CTB reserves the right to approve exceptions to this policy at any time in response to special or extraordinary circumstances.
4. Given that the condition of the VRE system may change over time, the CTB will consider revisions and/or updates to these guidelines at least every two years.

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## CTB Decision Brief

### **Title: Policy and Guidelines for Implementation of Funding for the Virginia Railway Express (VRE)**

**Issue:** The 2023 Virginia Acts of Assembly require the CTB to withhold funding available to VRE pursuant to Section 33.2-1526.1(O) under certain conditions. DRPT's recommendations for changes to the policy were reviewed with the CTB at its Workshop on July 18, 2023

**Facts:** DRPT recommends adopting a policy resulting from legislation approved during the 2023 General Assembly. The 2023 General Assembly approved HB 1496 and SB 1079, that restructures the Commonwealth Mass Transit Fund so that up to 3.5 percent of its funds may be annually allocated to NVTC for distribution to VRE for capital purposes and operating assistance. The exact amount is determined using service delivery factors. The CTB can withhold funds from VRE if it does not submit a detailed annual operating budget and proposed capital expenditures and projects for the following fiscal year to the CTB by February 1 of each year. DRPT worked collaboratively with NVTC, PRTC, and VRE on the policy.

**Recommendation:** DRPT recommends that the CTB approve the Policy and Guidelines for Implementation of Funding for VRE.

**Action Required by CTB:** Approval of the attached resolution updating the Policy and Guidelines for Implementation of Funding for VRE.

**Options:** Approve, Deny or Defer.