

NORTHERN VIRGINIA TRANSPORTATION AUTHORITY
MEMORANDUM

FOR: Chair Phyllis J. Randall and Members
Northern Virginia Transportation Authority

FROM: Monica Backmon, Chief Executive Officer
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DATE: March 2, 2023

SUBJECT: Update on 2023 General Assembly Session

1. Purpose: To inform the Northern Virginia Transportation Authority (NVTA) on the 2023 General Assembly Session.

2. Discussion:

- a. General Assembly broke new ground before it adjourned Sine Die on February 25th when it unanimously approved the “skinny budget” instead of a fully amended spending plan for FY 2023-2024. The approved amendments address four key areas:
- i. A required deposit into the Rainy Day Fund due to better than projected FY 2022 revenue collections
 - ii. Payment into the Virginia Retirement System to further reduce unfunded liabilities and protect retirees
 - iii. Fix a \$201 million accounting error in the introduced budget and ensure local K-12 school divisions are funded at promised levels
 - iv. Provide \$100 million in FY 2023 to complete existing capital projects whose costs have increased due to inflation and supply chain delays

Budget Conferees continue to work and the entire General Assembly will return in a special session to adopt a revised budget. The key block to consensus relates to what level, if any, tax relief will be provided. Because the underlying budget is in place until amended, Virginia technically has a spending plan in place. However, Governor Youngkin has limited ability to change funding priorities. Furthermore, without action by the General Assembly, the Governor and the General Assembly, will be unable to implement several bipartisan priorities discussed this year including salary increases for state employees and teachers, greater funding of new mental health and substance abuse services, economic development site preparation, initiatives to reverse pandemic-related learning loss in K-12 school systems, and a few transportation related decisions.

b. Transportation Policy Decisions Adopted

- i. **Transit** received a lot of attention this session with bills adopted related to the Virginia Railway Express (VRE), Washington Metropolitan Area Transit Authority (WMATA) and the Transit Ridership Incentive Program (TRIP).

Administration bills [SB 1079](#) and [HB 1496](#) passed both bodies unanimously and implement new transparency and accountability requirements for VRE and WMATA that must be met to continue receiving state support funds.

VRE will be allocated 3.5 percent of funding from the Commonwealth Mass Transit Fund. The Commonwealth Transportation Board (CTB) must adopt service delivery factors related to efficiency and effectiveness. This creates a unique commuter rail class of metrics instead of measuring VRE performance against local bus service. VRE must submit detailed operating and capital budgets to CTB annually by February 1. The Commonwealth is limiting state support to WMATA to no more than 50 percent of the Commonwealth Mass Transit Fund. The local subsidy to WMATA is well within the current 46.5% historic level of state funding. Additional reporting requirements are required including annually presenting its operating and capital budgets to CTB.

[SB 1326](#) and [HB 2338](#) allow up to 30% of TRIP funds to be used for transit facilities that support riders such as bus shelters, ADA compliance projects, and for zero or low emission vehicle transition activities. These two categories are part of recommendations from the Transit Modernization and Equity Study.

ii. **Economic development and transportation** initiatives required lots of negotiation between the administration and the legislature. Governor Youngkin's interest in tools to expand the quality of Virginia's business ready sites took a transportation focus this year with his initiatives to revive the Transportation Partnership Opportunity Fund (TPOF). Administration bills [SB 1106](#) and [HB 2302](#) started out specifying up to \$200 million from the Commonwealth Transportation Fund (CTF), greater authority for the Governor to use funds for transportation projects related to economic development, and less involvement of the Commonwealth Transportation Board (CTB). While Members of the General Assembly generally support the idea of and need for flexible transportation funding that can be used to improve potential business sites and support imminent economic opportunities, they had concerns about the source and amount of funds and legislative and CTB oversight. The bills as passed by the General Assembly have significant changes from the introduced version:

1. No longer mandate funding for TPOF,
2. The Governor may direct use of funds to the CTB when recommended by the Secretary of Transportation and Secretary of Commerce and Trade,
3. New reporting and approval mechanisms for proposed spends of greater than \$5 million or greater than \$35 million involving the chairs of the "money committees" and the Major Economic Investment Commission respectively. This includes reporting specific metrics such as number of jobs created/retained, rate of return and company investment in the Commonwealth.

Additionally, there is a slight amendment to the SMART SCALE program that clarifies that CTB must ensure no project is implemented *exclusively* for economic development versus current language of *primarily* for economic development.

The CTB is required to develop guidelines for TPOF and will have to adopt new guidelines to reflect these policy changes. The level of initial capitalization of TPOF will not be known until the budget is resolved. The House approved the \$200 million allotment from the CTF and the \$100 million transfer from the Virginia Transportation Infrastructure Bank (VTIB) as proposed in the introduced budget. The Senate approved a one-time transfer of \$100 million from CTF and transfer of \$100 million from VTIB.

- iii. **School Zones and Passing Stopped School Buses** policy changes were the only safety initiatives approved by the General Assembly this year. [HB 1723](#) clarifies that a stopped bus with a warning device is prima facie evidence that passengers are boarding or leaving the vehicle. [HB 2104](#) allows a school crossing sign to be placed as much as 750 feet from the school. The current limit is 600 feet. [HB 1995](#) and [SB 868](#) extend to 30 business days from the time to issue a summons for an alleged violation of passing a stopped school bus.
- iv. **Budget** deliberations will determine if the General Assembly will once again designate general fund dollars to specific transportation initiatives. Among projects under discussion is funding for I-81 improvements and a new inland port in the Mount Rogers District. This is on top of a total \$470 million in general funds allocated to the I-64 Gap project in Hampton Roads in FY 2022.