

**Virginia Department of Transportation
2009 Fiscal Impact Statement (Regular Session)**

1. Bill Number: HJR 725

House of Origin ☒ Introduced ☐ Substitute ☐ Engrossed
Second House ☐ In Committee ☐ Substitute ☐ Enrolled

2. Patron: Bell, R.

3. Committee: House Privileges and Elections Committee

4. Title: Proposing an Amendment to Section 11 of Article I of the Constitution of Virginia, relating to taking of private property.

5. Summary/Purpose:

Constitutional amendment (first resolution); taking of private property for public uses. Establishes what constitutes a taking of private property for a public use. Takings are for a public use only if (i) the property is taken for the possession, occupation, and enjoyment by the public or a public entity; (ii) the land is taken for construction, maintenance, and operation of public facilities by public corporations or by private entities provided that there is a written agreement with a public entity providing for the use of the facility by the public; (iii) the land is taken for the creation or functioning of a public service corporation, public service company, or railroad; (iv) the land is taken for the provision of utility services by a government utility corporation; (v) the land taken is blighted and is taken for the elimination of blight; or (vi) the property is taken in a redevelopment or conservation area that is abandoned or the acquisition is needed to clear title where one of the owners agrees to such acquisition or the acquisition is by agreement of all the owners. Property can only be taken when the public interest dominates the private gain and the primary purpose is not private financial gain, private benefit, an increase in tax base or revenues, or an increase in employment, except if the property is taken for the creation or functioning of a public service corporation, public service company, or railroad, or for the provision of authorized utility services by a government utility corporation.

6. Fiscal Impacts are unavailable

7. Budget amendment necessary: NO

8. Fiscal implications: Currently there are 420 projects with 6,269 parcels on the six year plan. Considering that, on average, VDOT condemns approximately 15% of the parcels acquired; we will assume that approximately 15% of the property owners on a given project might challenge the public use of the acquisition area. Thus it is estimated that approximately 940 property owners might challenge public use at a potential cost of \$10,000 per case for a total of approximately \$9,400,000 over the course of the Six Year Improvement Program.

If it is interpreted that instead of individual owners challenging public use, the challenge is brought forth on a project basis, we estimate the potential costs to VDOT at \$4,200,000 over the course of the Six Year Improvement Program.

9. Specific agency or political subdivisions affected: All State Agencies and localities with eminent domain authority.

10. Technical amendment necessary: NO

11. Other comments: NO

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cc: Secretary of Transportation