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**HOUSE BILL NO. 2164**

House Amendments in [ ] - January 31, 2011

A *BILL to amend and reenact § 33.1-221.1:1 of the Code of Virginia, relating to funding for construction of industrial access railroad tracks.*

Patron Prior to Engrossment—Delegate Abbitt

Referred to Committee on Transportation

**Be it enacted by the General Assembly of Virginia:**

**1. That § 33.1-221.1:1 of the Code of Virginia is amended and reenacted as follows:**

§ 33.1-221.1:1. Fund for construction of industrial access railroad tracks.

A. The General Assembly declares it to be in the public interest that access railroad tracks and facilities be constructed to certain industrial commercial sites where rail freight service is or may be needed by new or substantially expanded industry and that financial assistance be provided to areas seeking to furnish rail freight trackage between the normal limits of existing or proposed common carrier railroad tracks and facilities and the actual site of existing or proposed commercial or industrial buildings or facilities. This section is enacted in furtherance of these purposes and is intended to be comparable to the Industrial Access Roads Fund, established pursuant to § 33.1-221.

B. The funding for this program shall be set forth in the Appropriations Act.

C. The Director of the Department of Rail and Public Transportation shall administer and expend or commit, subject to the approval of the Commonwealth Transportation Board, such funds for constructing, reconstructing, or improving industrial access railroad tracks and related facilities. The Director of the Department of Rail and Public Transportation may consult with the Commissioner of Agriculture and Consumer Services and the Chief Executive Officer of the Virginia Economic Development Partnership, or their designated representatives, concerning applications for funds. Funds shall be spent directly by the Director of the Department of Rail and Public Transportation or by reimbursement of the local entities, private or public.

D. Funds may be used to construct, reconstruct, or improve part or all of the necessary tracks and related facilities on public or private property currently used or being developed, existent or prospective, for single industries or industrial subdivisions under firm contract or already constructed, including those subdivisions owned or promoted by railroad companies and others. Applications for funds must be approved by the local governing body.

E. In deciding whether to construct any such access track, the Commonwealth Transportation Board shall consider the cost thereof in relation to prospective volume of rail traffic, capital investment, potential employment, and other economic and public benefits. The Commonwealth Transportation Board shall adopt procedures to encourage widespread use of the funds, shall limit allocation of funds so that no county, city or town receives more than ~~twenty-five percent~~ [ *a disproportionate share 50 percent* ] of the funds in any one fiscal year unless there are not sufficient applications prior to May 1 of each year to use the available funds, and shall consider the practices of the Department of Transportation in distributing industrial access road funds under § 33.1-221.

F. Tracks and facilities constructed with such funds shall be the property of the Commonwealth for the useful life of the project as determined by the Director of the Department of Rail and Public Transportation and shall be made available for use by all common carriers using the railway system to which they connect. The landowners or using businesses shall, prior to the commitment of funds by the Director of the Department of Rail and Public Transportation, be contractually committed to the perpetual maintenance of such tracks and facilities so constructed and to the payment of any costs related to the future relocation or removal of such tracks and facilities.

ENGROSSED

HB2164E