

Department of Planning and Budget 2012 Fiscal Impact Statement

1. Bill Number: SB437

House of Origin	<input type="checkbox"/> Introduced	<input type="checkbox"/> Substitute	<input type="checkbox"/> Engrossed
Second House	<input type="checkbox"/> In Committee	<input type="checkbox"/> Substitute	<input checked="" type="checkbox"/> Enrolled

2. Patron: Obenshain

3. Committee: Passed both houses

4. Title: Eminent domain; definitions of lost profits and access

5. Summary: The proposed legislation would amend the process for determining just compensation during eminent domain takings to include compensation for lost access and lost profits. It would direct that the determination include compensation for a reduction in the remaining property's market value due to lost access to the property. It would also direct that compensation be provided for lost profits to a business or farm operation conducted on affected property if specified conditions are met.

The bill contains an enactment clause that states the bill is to become effective on January 1, 2013, provided that an amendment to the Constitution of Virginia passes in the November 2012 election.

6. Budget Amendment Necessary: None.

7. Fiscal Impact Estimates: Indeterminate. Final. See Item 8.

8. Fiscal Implications: The inclusion of lost access and lost profits when determining just compensation will increase the amounts to be paid to landowners. The amounts paid in a given fiscal year will vary depending on the impacts of the construction projects. In reviewing the projects contained in VDOT's six-year construction program, the agency was able to specifically identify approximately \$37.2 million over a three year period (approximately \$12.4 million annually) in additional costs that would have resulted if this legislation had been in effect. The agency is unable to accurately identify the possible future cost that could be incurred if this legislation passes.

The agency notes that the Federal Highway Administration does not normally compensate for lost access and lost profits. If the Federal Highway Administration will not authorize the use of federal transportation funds for the compensation, the costs will need to be provided out of the Transportation Trust Fund. In the end, this would reduce funding available to support the construction of new roads and bridges.

9. Specific Agency or Political Subdivisions Affected: Virginia Department of Transportation, agencies and institutions authorized to execute eminent domain

10. Technical Amendment Necessary: None.

11. Other Comments: Identical to HB 1035.

Date: 3/12/2012 dpb/smc

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