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SENATE BILL NO. 1331

Offered January 11, 2017

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A *BILL to amend and reenact §§ 2.2-229, 33.2-214, 33.2-214.1, 33.2-222, and 33.2-256 of the Code of Virginia and to amend the Code of Virginia by adding a section numbered 33.2-214.2, relating to Department of Transportation; Office of Intermodal Planning and Investment of the Secretary of Transportation; responsibilities.*

Patron—Carrico

Referred to Committee on Transportation

Be it enacted by the General Assembly of Virginia:

1. That §§ 2.2-229, 33.2-214, 33.2-214.1, 33.2-222, and 33.2-256 of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding a section numbered 33.2-214.2 as follows:

§ 2.2-229. Office of Intermodal Planning and Investment of the Secretary of Transportation.

A. There is hereby established the Office of Intermodal Planning and Investment of the Secretary of Transportation (*the Office*), consisting of a director, appointed by the Secretary of Transportation, and such additional transportation professionals as the Secretary of Transportation shall determine. The goals of the Office are to provide solutions that link existing systems; promote the coordination of transportation investments and land use planning; reduce congestion; improve safety, mobility, and accessibility; and provide for greater travel options. It shall be the duty of the director of the office to *Office to support and* advise the Secretary, the Virginia Aviation Board, the Virginia Port Authority Board, and the Commonwealth Transportation Board on intermodal issues, generally in his role as chairman of the Commonwealth Transportation Board.

B. The goals of the Office shall be:

1. To ensure transparency and accountability in the programming of transportation funds, including the development of the Six-Year Improvement Program pursuant to § 33.2-214 and the statewide prioritization process pursuant to § 33.2-214.1;

2. To ensure that the Commonwealth has a multimodal transportation system that promotes economic development and all transportation modes, intermodal connectivity, environmental quality, accessibility for people and freight, and transportation safety;

3. To ensure the use of innovative best practices to improve the efficiency of the Commonwealth's surface transportation network and to enhance the efficacy of strategies to improve such efficiency; and

4. To improve the coordination between transportation investments and land use planning.

C. The responsibilities of the Office shall be:

1. To identify transportation solutions to promote economic development and all transportation modes, intermodal connectivity, environmental quality, accessibility for people and freight, and transportation safety oversee the development of the Six-Year Improvement Program pursuant to § 33.2-214 for the Commonwealth Transportation Board;

2. To implement the statewide prioritization process developed by the Commonwealth Transportation Board pursuant to § 33.1-214.1 in coordination with the Department of Transportation and the Department of Rail and Public Transportation;

3. To assist develop for the Commonwealth Transportation Board in the development of the Statewide Transportation Plan pursuant to § 33.2-353;

4. To establish measures and targets related to the performance of the Commonwealth's surface transportation network and report annually on progress made to achieve such targets and to develop in coordination with applicable regional organizations to establish quantifiable and achievable goals pursuant to § 33.2-353;

5. To undertake, coordinate, and oversee studies of potential highway, transit, rail, and other improvements or strategies, to help address mobility and accessibility within corridors of statewide significance and regional networks, and promote commuter choice inclusion in the six-year improvement program needs identified in the Statewide Transportation Plan pursuant to § 33.2-353;

4. To work with and coordinate action of the Virginia Department of Transportation, the Virginia Department of Rail and Public Transportation, the Virginia Port Authority, and the Virginia Department of Aviation to promote intermodal and multimodal solutions in each agency's strategic and long-range plans;

5. To work with and review plans of regional transportation agencies and authorities to promote

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59 intermodal and multimodal solutions;

60 6. To work with and coordinate actions of the agencies of the transportation Secretariat to assess
61 freight movements and promote intermodal and multimodal solutions to address freight needs, including
62 assessment of intermodal facilities;

63 7. To assess and coordinate transportation safety needs related to passenger and freight movements
64 by all transportation modes;

65 8. To coordinate the adequate accommodation of pedestrian, bicycle, and other forms of
66 nonmotorized transportation in the six-year improvement program and other state and regional
67 transportation plans;

68 9. 6. To work with and coordinate actions of the agencies of the transportation Secretariat to
69 *implement assist the Commonwealth Transportation Board in the development of a comprehensive,*
70 *multimodal transportation policy, which may be developed as part of the Statewide Transportation Plan*
71 *pursuant to § 33.2-353; and*

72 10. To develop quantifiable and achievable goals pursuant to § 33.2-353 and transportation and land
73 use performance measures and prepare an annual performance report on state and regional efforts. The
74 Office of Intermodal Planning and Investment shall work with applicable regional organizations to
75 develop such goals;

76 11. To identify and facilitate public and private partnerships to achieve the goals of state and
77 regional plans;

78 12. 7. To provide technical assistance to local governments and regional entities, *including assistance*
79 *to establish and promote urban development areas pursuant to § 15.2-2223.1; and*

80 13. To establish standards for the coordination of transportation investments and land use planning to
81 promote commuter choice and transportation system efficiency.

82 **§ 33.2-214. Transportation; Six-Year Improvement Program.**

83 A. The Board shall have the power and duty to monitor and, where necessary, approve actions taken
84 by the Department of Rail and Public Transportation pursuant to Article 5 (§ 33.2-281 et seq.) in order
85 to ensure the efficient and economical development of public transportation, the enhancement of rail
86 transportation, and the coordination of such rail and public transportation plans with highway programs.

87 B. The Board shall have the power and duty to coordinate the planning for financing of
88 transportation needs, including needs for highways, railways, seaports, airports, and public transportation
89 and set aside funds as provided in § 33.2-1524. To allocate funds for these needs pursuant to §§
90 33.2-358 and 58.1-638, the Board, *with the assistance of the Office of Intermodal Planning and*
91 *Investment of the Secretary of Transportation established pursuant to § 2.2-229,* shall adopt a Six-Year
92 Improvement Program of anticipated projects and programs by July 1 of each year. This program shall
93 be based on the most recent official Transportation Trust Fund revenue forecast and shall be consistent
94 with a debt management policy adopted by the Board in consultation with the Debt Capacity Advisory
95 Committee and the Department of the Treasury.

96 C. The Board shall have the power and duty to enter into contracts with local districts, commissions,
97 agencies, or other entities created for transportation purposes.

98 D. The Board shall have the power and duty to promote increasing private investment in the
99 Commonwealth's transportation infrastructure, including acquisition of causeways, bridges, tunnels,
100 highways, and other transportation facilities.

101 E. The Board shall have the power and duty to integrate land use with transportation planning and
102 programming, consistent with the efficient and economical use of public funds. If the Board determines
103 that a local transportation plan described in § 15.2-2223 or any amendment as described in § 15.2-2229
104 or a metropolitan regional long-range transportation plan or regional Transportation Improvement
105 Program as described in § 33.2-3201 is not consistent with the Board's Statewide Transportation Plan
106 developed pursuant to § 33.2-353, the Six-Year Improvement Program adopted pursuant to subsection B,
107 and the location of routes to be followed by roads comprising systems of state highways pursuant to
108 subsection A of § 33.2-208, the Board shall notify the locality of such inconsistency and request that the
109 applicable plan or program be amended accordingly. If, after a reasonable time, the Board determines
110 that there is a refusal to amend the plan or program, then the Board may reallocate funds that were
111 allocated to the nonconforming project as permitted by state or federal law. However, the Board shall
112 not reallocate any funds allocated pursuant to § 33.2-319 or 33.2-366, based on a determination of
113 inconsistency with the Board's Statewide Transportation Plan or the Six-Year Improvement Program nor
114 shall the Board reallocate any funds, allocated pursuant to subsection C or D of § 33.2-358, from any
115 projects on highways controlled by any county that has withdrawn, or elects to withdraw, from the
116 secondary system of state highways based on a determination of inconsistency with the Board's
117 Statewide Transportation Plan or the Six-Year Improvement Program. If a locality or metropolitan
118 planning organization requests the termination of a project, and the Department does not agree to the
119 termination, or if a locality or metropolitan planning organization does not advance a project to the next
120 phase of construction when requested by the Board and the Department has expended state or federal

funds, the locality or the localities within the metropolitan planning organization may be required to reimburse the Department for all funds expended on the project. If, after design approval by the Chief Engineer of the Department, a locality or metropolitan planning organization requests alterations to a project that, in the aggregate, exceeds 10 percent of the total project costs, the locality or the localities within the metropolitan planning organization may be required to reimburse the Department for the additional project costs above the original estimates for making such alterations.

§ 33.2-214.1. Statewide prioritization process for project selection.

A. The General Assembly declares it to be in the public interest that a prioritization process for projects funded by the Commonwealth Transportation Board be developed and implemented to improve the efficiency and effectiveness of the state's transportation system, transportation safety, transportation accessibility for people and freight, environmental quality, and economic development in the Commonwealth.

B. Subject to the limitations in subsection C, the Commonwealth Transportation Board shall develop, in accordance with federal transportation requirements, and in cooperation with metropolitan planning organizations wholly within the Commonwealth and with the Northern Virginia Transportation Authority, a statewide prioritization process for the use of funds allocated pursuant to §§ 33.2-358, 33.2-370, and 33.2-371 or apportioned pursuant to 23 U.S.C. § 104. Such prioritization process shall be used for the development of the Six-Year Improvement Program pursuant to § 33.2-214 and shall consider, at a minimum, highway, transit, rail, roadway, technology operational improvements, and transportation demand management strategies.

1. The prioritization process shall be based on an objective and quantifiable analysis that considers, at a minimum, the following factors relative to the cost of the project or strategy: congestion mitigation, economic development, accessibility, safety, and environmental quality.

2. Prior to the analysis in subdivision 1, candidate projects and strategies shall be screened by the Commonwealth Transportation Board to determine whether they are consistent with the assessment of capacity needs for all for corridors of statewide significance, regional networks, and improvements to promote urban development areas established pursuant to § 15.2-2223.1, undertaken in the Statewide Transportation Plan in accordance with § 33.2-353.

3. The Commonwealth Transportation Board shall weight the factors used in subdivision 1 for each of the state's highway construction districts. The Commonwealth Transportation Board may assign different weights to the factors, within each highway construction district, based on the unique needs and qualities of each highway construction district.

4. The Commonwealth Transportation Board shall solicit input from localities, metropolitan planning organizations, transit authorities, transportation authorities, and other stakeholders in its development of the prioritization process pursuant to this section. Further, the Board shall explicitly consider input provided by an applicable metropolitan planning organization or the Northern Virginia Transportation Authority when developing the weighting of factors pursuant to subdivision 3 for a metropolitan planning area with a population over 200,000 individuals.

C. The prioritization process developed under subsection B shall not apply to the following: projects or activities undertaken pursuant to § 33.2-352; projects funded by the Congestion Mitigation Air Quality funds apportioned to the state pursuant to 23 U.S.C. § 104(b)(4) and state matching funds; projects funded by the Highway Safety Improvement Program funds apportioned to the state pursuant to 23 U.S.C. § 104(b)(3) and state matching funds; projects funded by the Transportation Alternatives funds set-aside pursuant to 23 U.S.C. § 213 and state matching funds; projects funded by the revenue-sharing program pursuant to § 33.2-357; and projects funded by federal programs established by the federal government after June 30, 2014, with specific rules that restrict the types of projects that may be funded, excluding restrictions on the location of projects with regard to highway functional classification. The Commonwealth Transportation Board may, at its discretion, develop a prioritization process for any of the funds covered by this subsection, subject to planning and funding requirements of federal law.

D. The Commonwealth Transportation Board shall make public, in an accessible format, the results of the screening and analysis of candidate projects and strategies under subsection B, including the weighting of factors and the criteria used to determine the value of each factor, no later than 30 days prior to a vote on such projects or strategies.

§ 33.2-214.2. Transparency in the development of the Six-Year Improvement Program.

The Board shall develop the Six-Year Improvement Program pursuant to § 33.2-214 in a transparent manner that provides the public, elected officials, and other stakeholders the opportunity to engage and comment in a meaningful manner prior to the adoption of such program.

No later than 150 days prior to a vote to include projects or strategies evaluated pursuant to § 33.2-214 in the Six-Year Improvement Program, the Office of Intermodal Planning and Investment shall make public, in an accessible format, (i) a recommended list of projects and strategies for inclusion in

182 *the Six-Year Improvement Program based on the results of such evaluation, (ii) the results of the*
183 *screening of candidate projects and strategies, and (iii) the results of the evaluation of candidate*
184 *projects and strategies, including the weighting of factors and the criteria used to determine the value of*
185 *each factor.*

186 *The Department shall make public a selection of projects eligible for funds under the State of Good*
187 *Repair Program pursuant to § 33.2-369 from the listing of prioritized pavement and bridge needs*
188 *published in the Commissioner's annual report pursuant to § 33.2-232 at least 150 days prior to the*
189 *adoption of a Six-Year Improvement Program that includes new projects with funding from such*
190 *program.*

191 **§ 33.2-222. Commissioner of Highways.**

192 The Commissioner of Highways shall be the chief executive officer of the Department of
193 Transportation. The Commissioner of Highways shall be an experienced administrator able to direct and
194 guide the Department in the establishment and achievement of the Commonwealth's long-range highway
195 Department's core functions as provided in subsection B of § 33.2-256 and other transportation
196 objectives determined by the Commonwealth Transportation Board.

197 The Commissioner of Highways shall devote his entire time and attention to his duties as chief
198 executive officer of the Department and shall receive such compensation as shall be fixed by law. He
199 shall also be reimbursed for his actual travel expenses while engaged in the discharge of his duties.

200 In the event of a vacancy due to the death, temporary disability, retirement, resignation, or removal
201 of the Commissioner of Highways, the Governor may appoint and thereafter remove at his pleasure an
202 "Acting Commissioner of Highways" until such time as the vacancy may be filled as provided in
203 § 33.2-200. Such "Acting Commissioner of Highways" shall have all powers and perform all duties of
204 the Commissioner of Highways as provided by law and shall receive such compensation as may be
205 fixed by the Governor. In the event of the temporary disability for any reason of the Commissioner of
206 Highways, full effect shall be given to the provisions of § 2.2-605.

207 **§ 33.2-256. Department of Transportation established.**

208 A. There is hereby created a Department of Transportation within the executive branch, which shall
209 be under the supervision and management of the Commissioner of Highways and responsible to the
210 Secretary of Transportation.

211 B. The core functions of the Department shall be as follows:

212 1. To maintain and operate the state highway system;

213 2. To oversee and manage highway projects included in the Six-Year Improvement Program pursuant
214 to § 33.2-214 or funded pursuant to § 33.2-1524; and

215 3. To ensure the safety of the traveling public on the state highway system.

216 Nothing in this subsection shall be construed to limit or restrict the powers otherwise granted to the
217 Department or Commissioner.