

**Virginia Department Of Transportation  
2011 Fiscal Impact Statement (Regular Session)**

**1. Bill Number: HB 2110**

**House of Origin**  Introduced     Substitute     Engrossed

**Second House**     In Committee     Substitute     Enrolled

**2. Patron: Armstrong, W.**

**3. Committee: House Courts of Justice**

**4. Title: A BILL to amend and reenact § 25.1-230 of the Code of Virginia, relating to eminent domain; just compensation; restricted access.**

**5. Summary/Purpose:**

This bill expands the "damages" element to include that any restriction, change, or loss of access to or from property taken under the power of eminent domain shall be considered as an element in assessing the damages to residue for the purposes of determining just compensation.

**6. Tentative Fiscal Impacts are:**

**6a. Expenditure Impact:**

Fiscal Year	Dollars	Positions	Funds
2010-2011	\$0.00	0	NGF
2011-2012	\$8,500,000.00	0	NGF
2012-2013	\$8,500,000.00	0	NGF
2013-2014	\$8,500,000.00	0	NGF
2014-2015	\$8,500,000.00	0	NGF

**b. Revenue Impact:**

Fiscal Year	Dollars	Positions	Funds
2010-2011	\$0.00	0	
2011-2012	\$0.00	0	
2012-2013	\$0.00	0	
2013-2014	\$0.00	0	
2014-2015	\$0.00	0	

**7. Budget amendment necessary: NO**

**8. Fiscal implications:** - VDOT has spent \$39.7 million dollars over the past three years to compensate landowners for incurable damages to residue parcels, including loss and/or restriction of access. Currently, certain types of changes in access are not considered compensable damages and the courts do not make awards for them.

- The inclusion of any "change" to an access, no matter how minor, opens the possibility for most landowners to seek damages, even if there is no physical taking of a portion of their property. Under the proposed bill, the change of the timing of a traffic signal would be a change so contemplated.
- This bill would establish real property interest in the public facility to adjacent property owners. When a property conveys, the landowner purchases rights to the land and any and all improvements, as well as access to a public road. Such access is not a real property interest nor was it part of the purchase price of the property. Compensating a landowner for a "change" in access resulting from regulatory or police powers establishes real property interest in the public facility to adjacent property owners.
- VDOT compensates landowners for loss or restriction of access, however, certain changes resulting from regulatory powers are not considered compensable damages. If this bill passes and the courts are required to consider "any change" in access as a compensable damage, VDOT estimates the fiscal impact to be \$34 million dollars or more through 2015. This estimate is based on the number of parcels on projects that would lend themselves to this type of change (for example, expanding a two lane primary road to four lanes) multiplied by the percentage of damages previously awarded by the courts in urban and rural jurisdictions across eastern, northern, and western portions of the Commonwealth.

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

**10. Technical amendment necessary:** NO

**11. Other comments:** NO

**Date:** 01/14/2011

**Revision Date:**

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cc: Secretary of Transportation