Department of Planning and Budget
2012 Fiscal Impact Statement

1. **Bill Number:** HB1183

   House of Origin ☐ Introduced ☐ Substitute ☐ Engrossed

   Second House ☐ In Committee ☐ Substitute ☒ Enrolled

2. **Patron:** Cosgrove

3. **Committee:** Passed both houses

4. **Title:** Virginia Port Authority (VPA) organizational changes; creation of the Port Opportunity Fund

5. **Summary:** The proposed legislation exempts VPA from preparing environmental reports when capital projects are less than $5 million and the procedures of the Virginia Personnel Act. The bill also authorizes VPA to retain an outside auditor chosen by the Auditor of Public Accounts though competitive negotiation. The General Assembly may request the Auditor of Public Accounts to perform an audit of VPA at any time. Further, the bill exempts VPA from state procedures regarding the disposal of surplus equipment and real property, and state oversight of real property acquisition provided that the VPA board adopts regulations consistent with the state procedures. The bill directs that the Governor is to approve the acquisition, sale or lease of real property valued over $20 million.

   The bill requires members appointed by the Governor to the VPA board to have executive level experience and represent the industries of agriculture, distribution and warehousing, manufacturing, logistics and transportation, mining, marketing, legal, finance or transportation infrastructure. The board is authorized to create a Maritime Advisory Council to provide advice on port matters outside of the annual budget or personnel issues.

   The bill also extends the sunset provisions on several port-related tax credits. The bill would extend the international trade facility tax credit by two years to January 1, 2017, the barge and rail usage tax credit by two years to January 1, 2017, and the Virginia port volume increase tax credit by one year to January 1, 2017. The International trade facility tax credit would be raised from $3,000 to $3,500 and the barge and rail tax credit would be expanded to include non-containerized cargo. The caps on both tax credits would not change. The bill contains an enactment clause requiring the Department of Taxation to report on specified aspects of the tax credits in the year immediately preceding any taxable year or calendar year in which the credit is due to expire.

   The bill creates the Port Opportunity Fund, which is to be a subfund of the Commonwealth Port Fund. In years in which the Authority's net operating income exceeds operation expenditures by at least five percent, the VPA is to transfer five percent of the income from terminal revenues to the Port Opportunity Fund. Funds in the Port Opportunity Fund are to be used to fund a marketing program and to provide incentives for expanding the use of port facilities. The VPA and its board are to develop regulations for the use of the incentives that comply with Virginia laws.

The proposed legislation also contains an enactment clause directing the Office of the Governor to report recommendations by December 1, 2012, to General Assembly committees on the establishment of an economic development zone which will attract the distribution, manufacturing, warehousing and intermodal facilities needed to support the projected cargo growth at the Port of Virginia spanning from the expansion of the Panama Canal.

6. **Budget Amendment Necessary**: See Item 8.

7. **Fiscal Impact Estimates:** See Item 8.

8. **Fiscal Implications:** The changes to the Virginia Port Authority are not expected to have a fiscal impact given the various versions of the biennial budget under consideration. The Governor's introduced budget for the 2012-2014 biennium (House Bill 30) assumed the credits. The budget as originally approved by the House also assumed the credits, as did the budget recommendations made by the Senate Finance Committee. The newly introduced House Bill 1301, as passed by the House Appropriations Committee, also assumed the credits.

   The exclusion of VPA from the state's real property oversight and surplus property program may impact the program service fees charged to other state agencies.

   The creation of the Port Opportunity Fund will not negatively impact the operational needs of the VPA, as the impact will only occur after all operating expenditures are paid. Any other benefits from the fund related to increasing port traffic cannot be determined at this time.

   The bill requires the Department of Taxation to report on specified aspects of the port-related tax credits. Currently, the Department of Taxation reports to the General Assembly on the dollar amount of corporate income credits claimed by corporations and it publishes an annual fiscal year tax credit report as part of its annual report. In addition, the General Assembly passed HB 777, which creates the Joint Subcommittee to Evaluate Tax Preferences. While the reporting criteria contained in this legislation may increase the workload of the Department of Taxation, it is not expected to require additional funding.

9. **Specific Agency or Political Subdivisions Affected:** Virginia Port Authority, Department of Taxation

10. **Technical Amendment Necessary:** None.

11. **Other Comments:** Identical to SB 578.

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