

Department of Planning and Budget 2012 Fiscal Impact Statement

1. Bill Number: SB437

House of Origin ☒ Introduced ☐ Substitute ☐ Engrossed
Second House ☐ In Committee ☐ Substitute ☐ Enrolled

2. Patron: Obenshain

3. Committee: Courts of Justice

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

5. Summary: The proposed legislation would amend the process for determining compensation during eminent domain takings. It would direct that, when determining the amount of just compensation, the determination include compensation for lost access to a parcel of real property or lost profits to a business or farm operation conducted on affected property. The inclusion of compensation for lost profits is to be included 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: Unavailable. See Item 8.

8. Fiscal Implications: *This fiscal impact statement has been revised to amend the estimated expenditure impact of the legislation.*

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 \$108.1 million over a three year period (approximately \$36.0 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 HB1035 and similar to HB 597.

Date: 2/1/2012 dpb/smc

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