

2009 Virginia General Assembly Session Legislative Report – January 25, 2009

Overview:

The sharp partisan exchanges, particularly in the House of Delegates continued this week, including the continued standoff in the House over seating the apparent winner of the special election in the Alexandria based 46th District. The House Republican majority has refused to seat Charniele Herring (D-Alexandria) until the results of an official recount, which might be concluded by Monday or Tuesday, January 26 or the 27.

Governor's initiatives

Several of Governor Tim Kaine's initiatives on voting reform and redistricting met with stiff resistance from the House Privileges and Elections Committee. The Committee defeated both a measure to expand absentee ballot voting and a bill that would establish a bi-partisan redistricting commission. Both measures were defeated on a party-line vote, with Republicans opposing the bills and Democrats supporting the Governor's initiatives. The Senate Privileges and Elections Committee endorsed the absentee ballot measure (and the Committee is also expected to embrace the redistricting commission bill as well). It appears likely that if either measure finds its way to the House, both will face the same partisan division in the House Committee.

One issue that both Republicans and Democrats in the House and Senate appear to agree on is the fact that Governor Kaine may have underestimated Virginia's escalating budget deficit by a billion dollars or more. Legislators are now putting the budget shortfall as high as \$4 billion. The realization that the deficit goes even deeper than initially anticipated means that the General Assembly will be forced to cut deeper into what is considered the core services of government, including public education, health care and public safety. Finance Committee member and budget conferee Senator Janet Howell (D-Fairfax County) said that if this scenario is confirmed by budget numbers that are due in the early part of February, then she observed that "what are already severe cuts would become Draconian."

Transportation Funding

There appears to be little hope that legislators have any appetite for finding additional long-term sustainable revenues for transportation. At the end of the week, a House Finance Committee unanimously defeated HB 1661, which was a measure offered by Delegate Jim Scott (D-Fairfax County) that would have converted the cents per gallon sales tax on gas to a percentage, which could help stop the erosion of the gas tax's value, and perhaps provide a measure of additional funding for transportation. There is still a similar gas tax conversion bill (HB 1846) that has been offered by Delegate Scott Lingamfelter (R-Prince William County). Delegate Lingamfelter offered a similar conversion bill during the special transportation session last year. While members of the House Republican leadership have said that any gas tax related legislation would most likely not survive, Delegate Lingamfelter has told us that he would continue to refine the bill in hopes of gaining some support within the anti-tax House Finance Committee.

Delegate Glen Oder's HB 1579, which would capture future revenue growth at the Ports in Hampton Roads, the Richmond Port, Dulles and National Airports, and the Inland Port and dedicated these revenues to transportation in the related regions, will likely be considered by subcommittee this week. We have been told that Delegate Oder plans to offer a substitute to his bill this week that will, among other things, use the growth in Northern Virginia's income tax to generated additional revenues for transportation (it appears that the growth in revenues at the airports would not provide the revenues necessary for Northern Virginia's massive transportation needs). The patron is well aware that this bill, as it is currently constituted, will have little if any chance of passing (it might very well pass the House, but the Democrats in the Senate rejected a similar idea once last year, and there is little thought that they will embrace this concept now).

The question is whether this bill might become a vehicle for a serious transportation funding discussion moving forward.

Overweight Trucks

We convened a meeting with Secretary of Transportation Pierce Homer and other interested stakeholder to discuss the over weight vehicle permitting fee legislation that has been offered by Senate Transportation Chair Yvonne Miller (D-Norfolk). Senator Miller's SB 1048 is the Kaine Administration's bill (Secretary Homer made it clear that Delegate Marshall's (R-Prince William County) HB 2319 was not filed at the request of Secretary Homer, and would likely not be supported the administration). SB 1048, as drafted, would have increased the permitting fee on certain vehicles by \$500 or more. Secretary Homer said that the bill was not drafted correctly, and the measure should have only increased fees by \$250. He said that Senator Miller would be offering a substitute to reflect that important change. Secretary Homer understood the concerns we articulated about the difficult financial times, and the questions we raised about the study's methodology (the study does not take into account the amount of revenue trucks generate to support the Commonwealth's infrastructure through gas taxes and other fees). Secretary Homer said that the fee increases could have been much more significant, given the study's conclusion regarding the damages overweight trucks inflict on the road, but he believes the suggested increases strike an appropriate balance. Secretary Homer also noted that VDOT is currently, "broke", and that the state is actually going backward in terms of the quality of the pavement. The Secretary said that he expected to see other overweight truck bills (none of them administration bills); in fact, Senator George Barker (D-Fairfax County) has introduced one (SB 1500).

Federal Economic Stimulus Package

We also asked Secretary Homer about the federal economic stimulus package, and what the Commonwealth could expect. Secretary Homer said that he anticipated that the package would end up being worth between \$700 and \$800 billion dollars. The priority for the money would be pavement and bridges. Secretary Homer said that the money should be placed into context with both the need and the significant reductions that have taken place in the Six Year Plan. The entirety of the prospective stimulus package would only cover approximately 25% to 30% of the projects that have been removed from the Six Year Plan. Secretary Homer has not disclosed a list of projects that would be considered for the stimulus package. The administration's refusal to share a list of eligible projects has upset some legislators who believe they should be kept apprised of the development of such a list. VDOT Commissioner Ekern took some very pointed questions from members of the House Appropriations Committee regarding this issue this past week. Commissioner Ekern told the Committee that highway engineers are planning the Virginia projects and no political considerations will be given. The Commissioner promised return to the Appropriations Committee with a list of projects as soon as he could ascertain what the federal package will actually look like.

Parking Restrictions For Certain Vehicles

We have continued our discussions with Delegate David Albo (R-Fairfax County) regarding his bill that would restrict parking of certain vehicles in certain residential areas in several Northern Virginia localities. HB 1694 came before the House Transportation Committee this week, but at Delegate Albo's request, in consultation with us, he has asked the Committee to hold his bill to see if he can offer alternative language that will substantially narrow the focus of his bill to a certain type of vehicle (Delegate Albo said he was focused on vehicles such as the "Snap on Tool" trucks). We have also had discussions with Delegate David Marsden (D-Fairfax County) regarding HB 2231, which is even broader than Delegate Albo's bill. Delegate Marsden has acknowledged the problems in his bill, but he has said that the problem in his community is significant, and both he and Delegate Albo are looking for a workable solution. It appears that such a solution will be difficult to fashion, but we will continue to monitor these bills closely.

New Transportation Commission Proposed

Delegate Joe May (R-Loudoun County), has introduced a resolution that would established a new

transportation commission. House Joint Resolution 770 would create the “Commission on Virginia’s Transportation Needs”. The new commission would be charged with looking at transportation needs in the Commonwealth, including examining alternatives for planning and financing of the state’s transportation system. The Commission will be led by former governors Gerald Baliles and George Allen, who have both expressed interest in leading such a panel.

January 23 marked the last day for bill introductions, consequently, most (and we highlight, most) of the bills that will have an impact on our members should be included in the attached list.

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Composite view with notes

Bills	Committee	Last action	Date
HB 1579 - Oder - Transportation funding, etc; certain revenues attributable to economic growth in Hampton Roads, etc.	(H) Committee on Transportation	(H) Assigned Transportation sub: 4	01/16/09
HB 1580 - Oder - Hampton Roads Transportation Authority; abolishes Authority, and fees, etc. dedicated to financing.	(H) Committee on Transportation	(H) Assigned Transportation sub: 4	01/16/09
HB 1628 - Cole - Contractor performance bonds; amount for locally administered transportation improvement projects.	(H) Committee on Transportation	(H) Referred to Committee on Transportation	12/03/08
HB 1633 - Saxman - Offshore drilling; apportions royalties that State receives to certain funds and programs.	(H) Committee on Appropriations	(H) Assigned App. sub: Economic Development, Agriculture and Natural Resources(Cox)	01/19/09
HB 1645 - Marshall, D.W. - Highway system construction, urban; allocations to localities.	(H) Committee on Appropriations	(H) Assigned App. sub: Transportation (May)	01/19/09

HB 1648 - Ware, R.L. - Virginia byways; requires every agency, etc. to consider impact of its' plans on roads designated.	(H) Committee on Transportation	(H) Referred to Committee on Transportation	12/12/08
HB 1659 - Howell, A.T. - Wireless telecommunications devices; prohibits use of while driving except in an emergency.	(H) Committee on Militia, Police and Public Safety	(H) Referred to Committee on Militia, Police and Public Safety	12/15/08
HB 1661 - Scott, J.M. - Motor fuels tax; converts rates to percentage that shall be calculated by DMV Commissioner.	(H) Committee on Finance	(H) Assigned Finance sub: 3	01/16/09
HB 1677 - Orrock - Contractor performance bonds; amount for locally administered transportation improvement projects.	(H) Committee on Transportation	(H) Referred to Committee on Transportation	12/23/08
HB 1694 - Albo - Parking; allows certain counties and towns to prohibit parking of certain vehicles on streets.	(H) Committee on Transportation	(H) Referred to Committee on Transportation	01/05/09
HB 1710 - Oder - Contracts; certain indemnification provisions in construction contracts declared void.	(H) Committee on General Laws	(H) Assigned GL sub: Professional/Occupational/Adminstrative Process	01/14/09
HB 1723 - Albo - Highway Maintenance and Operating Fund; provides a formula for allocating proceeds.	(H) Committee on Transportation	(H) Assigned Transportation sub: 4	01/16/09
HB 1728 - Cole - Road impact fees; allows localities to reduce or exempt fee for commercial development.	(H) Committee on Counties, Cities and Towns	(H) Assigned CC & T sub: 2	01/20/09
HB 1752 - Carrico - Weight limits for gravel trucks; repeals sunset provision on statute.	(H) Committee on Transportation	(H) Referred to Committee on Transportation	01/07/09
HB 1759 - Marshall, R.G. - Transportation Capital Projects Bond Act of 2009; created.	(H) Committee on Transportation	(H) Assigned Transportation sub: 4	01/22/09
HB 1769 - Dance - Mobile telephone and other wireless electronic devices; use of hands-free accessory while driving.	(H) Committee on Militia, Police and Public Safety	(H) Referred to Committee on Militia, Police and Public Safety	01/08/09
HB 1839 - Albo - Commercial real estate tax; used for local projects and construct new roads.	(H) Committee on Finance	(H) Assigned Finance sub: 2	01/16/09
HB 1848 - Lingamfelter - Transportation; Auditor of Public Accounts to administer operational	(H) Committee on Appropriations	(H) Assigned App. sub: Transportation (May)	01/23/09

performance audit.			
HB 1993 - Bulova - Highway maintenance funds; requirements for Commonwealth Transportation Board in allocating.	(H) Committee on Transportation	(H) Referred to Committee on Transportation	01/13/09
HB 1995 - Bulova - Northern Virginia Transportation Authority; adds Cities of Alexandria, etc., to use % of revenues.	(H) Committee on Transportation	(H) Referred to Committee on Transportation	01/13/09
HB 2019 - Rust - Transportation corridors; Transportation Board to establish connection with Transportation Plan .	(H) Committee on Transportation	(H) Referred to Committee on Transportation	01/13/09
HB 2020 - Rust - Highway maintenance funds; provides method Transportation Board is to allocate additional funds.	(H) Committee on Transportation	(H) Referred to Committee on Transportation	01/13/09
HB 2066 - Hamilton - Public-Private Transportation Act of 1995; establishes provisions that apply.	(H) Committee on Transportation	(H) Referred to Committee on Transportation	01/13/09
HB 2073 - Scott, E.T. - Weight limit extension; vehicles using an auxiliary power unit or idle reduction technology.	(H) Committee on Transportation	(H) Referred to Committee on Transportation	01/13/09
HB 2075 - Scott, E.T. - Overweight/oversize vehicle permits; violation of terms & conditions thereof does not void permit.	(H) Committee on Transportation	(H) Referred to Committee on Transportation	01/13/09
HB 2076 - Oder - Tolls; prohibits imposition & collection of tolls for use of portions of I-64 & I-664.	(H) Committee on Transportation	(H) Referred to Committee on Transportation	01/13/09
HB 2079 - Oder - Hampton Roads Bridge-Tunnel; VDOT to accept unsolicited proposals to add capacity thereto.	(H) Committee on Transportation	(H) Referred to Committee on Transportation	01/13/09
HB 2099 - Orrock - George Washington Toll Road Authority; created, encompasses City of Fredericksburg, etc.	(H) Committee on Transportation	(H) Referred to Committee on Transportation	01/13/09
HB 2117 - Nichols - HOT lanes; prohibits on any portion of I-95 between Potomac River and City of Fredericksburg.	(H) Committee on Transportation	(H) Referred to Committee on Transportation	01/13/09
HB 2118 - Nichols - Secondary highway system construction allocations; allocates among counties on basis of population.	(H) Committee on Transportation	(H) Referred to Committee on Transportation	01/13/09

HB 2121 - Nichols - Public Procurement Act; verification of legal presence of contractors for employment.	(H) Committee on General Laws	(H) Assigned GL sub: FOIA	01/19/09
HB 2130 - Miller, J.H. - Supplemental Highway Construction Fund; established.	(H) Committee on Appropriations	(H) Assigned App. sub: Transportation (May)	01/20/09
HB 2185 - Phillips - Weight limits for gravel trucks; repeals sunset provision on.	(H) Committee on Transportation	(H) Referred to Committee on Transportation	01/14/09
HB 2194 - Watts - Motor fuels tax; rate increase used for transportation purposes.	(H) Committee on Finance	(H) Assigned Finance sub: 1	01/20/09
HB 2202 - Vanderhuy - Greenhouse gas emissions; State Air Pollution Control Board to adopt regulation requiring reporting.	(H) Committee on Agriculture, Chesapeake and Natural Resources	(H) Referred to Committee on Agriculture, Chesapeake and Natural Resources	01/14/09
HB 2206 - Frederick - Budget Bill; Governor to include funding for transportation in biennium equal to at least 10%.	(H) Committee on Appropriations	(H) Assigned App. sub: Technology Oversight & Government Activities (Landes)	01/20/09
HB 2230 - Marsden - Highway construction allocations; Transportation Board allocate projects in Northern Virginia, etc.	(H) Committee on Transportation	(H) Assigned Transportation sub: 1	01/23/09
HB 2231 - Marsden - Parking; adds pickup and panel trucks to list of vehicles that Fairfax, etc. may prohibit therefrom.	(H) Committee on Transportation	(H) Referred to Committee on Transportation	01/14/09
HB 2232 - Marsden - Crashes on HOT lanes under construction; if no apparent bodily injuries, drivers must move vehicles.	(H) Committee on Transportation	(H) Assigned Transportation sub: 2	01/23/09
HB 2319 - Marshall, R.G. - Overload and overweight permits; revises fees.	(H) Committee on Transportation	(H) Referred to Committee on Transportation	01/14/09
HB 2380 - Scott, J.M. - Wireless telecommunications devices; prohibits use of text messaging while driving certain vehicles.	(H) Committee on Transportation	(H) Referred to Committee on Transportation	01/14/09
HB 2425 - May - Highways, primary and secondary; transfer roads, bridges, etc., therefrom to local system of roads.	(H) Committee on Transportation	(H) Referred to Committee on Transportation	01/14/09
HB 2470 - Hugo - Northern Virginia Transportation District Fund; dedication of state matching funds.	(H) Committee on Finance	(H) Assigned Finance sub: 2	01/20/09

HB 2480 - Hugo - Real property tax; commercial property in Northern Virginia and Hampton Roads.	(H) Committee on Finance	(H) Assigned Finance sub: 2	01/20/09
HB 2485 - Nichols - Vehicle safety inspections; codifies exceptions thereto set forth in proclamation of July 2006.	(H) Committee on Transportation	(H) Referred to Committee on Transportation	01/14/09
HB 2563 - Cole - Street construction; allows locality to withhold acceptance of plat approval if street not complete.	(H) Committee on Counties, Cities and Towns	(H) Referred to Committee on Counties, Cities and Towns	01/22/09
HB 2577 - May - Highway noise abatement; Transportation Board or VDOT to plan therefor when constructing.	(H) Committee on Transportation	(H) Referred to Committee on Transportation	01/22/09
HB 2622 - Marshall, D.W. - Salem Highway Construction District Transportation Revenue Fund; established.	(H) Referral Pending	(H) Committee Referral Pending	01/23/09
HJ 620 - Oder - Constitutional amendment; Transportation Fund, Highway Maintenance and Operating Fund, etc.	(H) Committee on Privileges and Elections	(H) Assigned P & E sub: Constitutional	01/15/09
HJ 626 - Poisson - Motor fuel tax; joint subcommittee to study replacement with mileage-based fee.	(H) Committee on Rules	(H) Referred to Committee on Rules	10/14/08
HJ 687 - Rust - Highways; Joint Commission on Transportation Accountability to develop plan to toll certain.	(H) Committee on Rules	(H) Referred to Committee on Rules	01/13/09
HJ 711 - Jones - Transportation Network of Hampton Roads, Joint Subcommittee studying; continued.	(H) Committee on Rules	(H) Referred to Committee on Rules	01/14/09
HJ 720 - Marshall, R.G. - Constitutional amendment; Transportation Fund, Highway Maintenance and Operating Fund, etc.	(H) Committee on Privileges and Elections	(H) Assigned P & E sub: Constitutional	01/22/09
HJ 770 - May - Virginia's Transportation Needs, Commission on; created, report.	(H) Committee on Rules	(H) Referred to Committee on Rules	01/21/09
SB 834 - Locke - Public Procurement Act; procurement of architectural & professional engineering service for project.	(S) Committee on General Laws and Technology	(S) Constitutional reading dispensed (39-Y 0-N)	01/23/09
SB 874 - Ticer - Mobile telephone	(S) Committee on	(S) Committee substitute printed 093855336-	01/23/09

and other wireless electronic devices; use of hands-free accessory while driving.	Transportation	S1	
SB 900 - McDougle - Contractor performance bonds; pertaining to locally administered transportation projects.	(S) Committee on Transportation	(S) Referred to Committee on Transportation	12/31/08
SB 966 - Blevins - Wireless telecommunications devices; prohibits use of while driving except in an emergency.	(S) Committee on Transportation	(S) Incorporated by Transportation (SB874-Ticer) (14-Y 0-N)	01/22/09
SB 995 - Miller, J.C. - Hampton Roads Transportation Authority; abolished, makes several technical changes.	(S) Committee on Finance	(S) Rereferred to Finance	01/15/09
SB 1018 - Miller, J.C. - Hampton Roads Transportation Authority; removes certain counties and cities therefrom.	(S) Committee on Transportation	(S) Reported from Transportation (9-Y 5-N 1-A)	01/22/09
SB 1041 - Hanger - Fuels taxes; annually adjusted.	(S) Committee on Finance	(S) Referred to Committee on Finance	01/13/09
SB 1048 - Miller, Y.B. - Temporary vehicle registrations and overload and overweight permits; revises fees.	(S) Committee on Transportation	(S) Referred to Committee on Transportation	01/13/09
SB 1101 - Herring - Racing Commission; authorizes wagering on historical horse racing.	(S) Committee on General Laws and Technology	(S) Referred to Committee on General Laws and Technology	01/13/09
SB 1137 - Petersen - Northern Virginia Transportation Authority; adds Cities of Alexandria, etc., to use % of revenues.	(S) Committee on Local Government	(S) Referred to Committee on Local Government	01/13/09
SB 1138 - Petersen - Parking on public highways; counties & towns to regulate transporting commercial freight externally.	(S) Committee on Transportation	(S) Reported from Transportation (11-Y 4-N)	01/22/09
SB 1203 - Puckett - Public Procurement Act; prequalification for certain transportation contracts.	(S) Committee on General Laws and Technology	(S) Referred to Committee on General Laws and Technology	01/13/09
SB 1283 - Newman - Motor fuels tax; change in tax basis.	(S) Committee on Finance	(S) Referred to Committee on Finance	01/14/09
SB 1368 - Barker - Highway systems; allocation of maintenance funds.	(S) Committee on Transportation	(S) Referred to Committee on Transportation	01/14/09
SB 1397 - Norment - Racing Commission; allocations from simulcast horse racing.	(S) Committee on General Laws and Technology	(S) Referred to Committee on General Laws and Technology	01/14/09

SB 1398 - Norment - Statewide Transportation Plan; requires all plans of counties, cities, and towns be based thereon.	(S) Committee on Transportation	(S) Referred to Committee on Transportation	01/14/09
SB 1438 - Miller, Y.B. - Urban highway system construction funds; 2/3 portion of a city's funds can be used to service debt.	(S) Committee on Transportation	(S) Reported from Transportation (15-Y 0-N)	01/22/09
SB 1444 - Martin - Wireless telecommunications devices; prohibits use of while operating commercial motor vehicles.	(S) Committee on Transportation	(S) Passed by indefinitely in Transportation (14-Y 0-N)	01/22/09
SB 1464 - McDougale - Chief Executive Officer for Transportation; abolished Commonwealth Transportation Commissioner.	(S) Committee on Transportation	(S) Referred to Committee on Transportation	01/20/09
SB 1482 - Hanger - Transportation Capital Projects Bond Act of 2007; repeals Act.	(S) Committee on Transportation	(S) Referred to Committee on Transportation	01/21/09
SB 1498 - Barker - Fuels taxes; percentage of wholesale cost.	(S) Committee on Finance	(S) Referred to Committee on Finance	01/23/09
SB 1500 - Barker - Overload and overweight permits; fees.	(S) Committee on Transportation	(S) Referred to Committee on Transportation	01/23/09
SB 1530 - Norment - Subdivision streets; acceptance into state secondary highway system.	(S) Committee on Transportation	(S) Referred to Committee on Transportation	01/23/09
SB 1534 - Watkins - Central Virginia Regional Transportation Authority.	(S) Committee on Local Government	(S) Referred to Committee on Local Government	01/23/09
SJ 323 - Martin - Constitutional amendment (first resolution); Transportation Funds.	(S) Committee on Privileges and Elections	(S) Referred to Committee on Privileges and Elections	01/13/09
SJ 361 - Norment - Constitutional amendment; Transportation Funds (first reference).	(S) Committee on Privileges and Elections	(S) Referred to Committee on Privileges and Elections	01/14/09