

2009 Virginia General Assembly Session Legislative Report – February 1, 2009

Overview:

After daily (and often sharp) exchanges over the failure to seat the newly elected delegate from the 46th District, Delegate Charnielie Herring (D-Alexandria) finally took her seat in the House of Delegates after a recount confirmed that she did indeed win the Special Election to fill the unexpired term of Delegate Brian Moran, who resigned his seat to pursue the Democratic nomination for Governor.

Economic Stimulus:

Discussions and speculation regarding how the federal stimulus plan might impact Virginia and the significant budget challenges the Commonwealth faces. The U.S. House of Representatives version of the American Recovery and Reinvestment Act of 2009 passed that chamber this past week, and House Appropriations members received a briefing on the package from staff at the end of the week. While the total package numbers remain somewhat fluid, Virginia's funding from the package appears to be approximately \$5.8 billion over the next two years (the total value of the stimulus package for Virginia totals \$11 billion, with nearly half of that amount going directly to individuals and businesses through tax cuts and other benefits). Of the \$5.8 billion coming to the state, only about 10% of that funding will be utilized for infrastructure related projects (a number of legislators on the House Appropriations Committee expressed frustration that the package limits investment in infrastructure projects). In terms of infrastructure funding, over the next two years the Commonwealth would receive a total of approximately \$746 million for highways; \$101 million for transit capital grants; \$87 million for urban formula grants; and \$14 million for rural formula grants. These monies require no state match. The bill requires that 50% of the state's allocation be obligated within either 90 days (House version) or 180 days (Senate version). The remainder of the allocation must be obligated by August, 2010. In addition to other restrictions, priority will be given to projects that can be awarded contracts within 120 days. Priority will also be given to projects that are included in a statewide transportation improvement program and are located within a "economically distressed area" (it is worth noting that Appropriations members from Northern Virginia were concerned that this could potentially limit the amount of aid that flows to this affluent, yet gridlocked region - House staff indicated that it would not be difficult to navigate around these federal strings).

The largest single spending item is the State Fiscal Stabilization Fund. The Commonwealth's share of the fund is currently estimated at \$1.6 billion. 61% or \$900 million of the revenues from the Fund are directed toward K-12 and/or higher education (the funds are to be used to restore state budget reductions to FY 2008 levels and are to be used to mitigate in-state tuition and fee increases). The remaining 39%, or \$600 million in the Fund has no language governing its use, so it appears there will be flexibility in how these funds will be allocated (a number of legislators have indicated that these funds should be directed toward one-time infrastructure related projects). There will likely be a disagreement between the Governor and the General Assembly over who should determine how these funds should be appropriated. The provisions governing the State Fiscal Stabilization Fund reference that the Governor as the recipient of the funds. There are those in the General Assembly who will maintain that, since the General Assembly appropriates all dollars, that they should be the ones to determine how the money should be appropriated. It is unlikely that the General Assembly will adjourn and leave the Governor to make the spending decisions from the Fund.

The stimulus package's increase in Medicaid funding of between \$550 million and \$660 million over two years accounts for another large portion of the federal aid. Some Republicans have indicated that this additional healthcare related funding will eliminate the need for Governor Kaine's proposal to double the state's cigarette tax (the Governor's proposal was killed overwhelmingly by the House Finance Subcommittee).

While it is somewhat obvious that the federal stimulus package will have a significant impact on the budget negotiations over the next several weeks, it is worth noting that only about \$1.3 billion of the stimulus package can be used to offset the state's \$3.2 billion budget deficit (that number in all likelihood will be adjusted upward in the next couple of weeks when the General Assembly will receive the latest budget forecast). House Appropriations Chairman Lacey Putney (I-Bedford) has said that he hopes the General Assembly will have enough information on the final stimulus package in time for budget conferees to make adjustments to the state budget before the General Assembly is scheduled to end on Feb. 28. This timetable will be very tight, given the fact that the Senate is expected to begin debating its version of the bill on Monday, and the Obama Administration hopes to have a bill completed between Feb. 15 and Feb. 22.

Transportation Funding:

As expected, several bills that would have provided additional funding for transportation were defeated by the various House Finance Subcommittees. Delegate Scott Lingamfelter (R-Prince William County), patron of HB 1846, which would convert the current cents per gallon gas tax to a percentage, was resoundingly defeated, as was Delegate Vivian Watts (D-Fairfax County) ' HB 2194, which provided for both an increase and a mechanism to index the gas tax.

Delegate David Albo (R-Fairfax County) offered HB 1723, which would provide for an alternative formula for allocating the proceeds of the Highway Maintenance and Operating Fund (HMO). The bill does not increase revenues for maintenance, but it will redistribute existing revenues, increasing Northern Virginia, Hampton Roads, and Central Virginia's maintenance allocation. As Delegate Albo put it, "If you are from NOVA, Hampton Roads, and the Richmond area, you should vote for this, if you are from anywhere else, you should vote against it." The bill was recommended by Subcommittee to be reported and referred to the House Appropriations Committee. Predictably, support for the measure broke down along regional and not political lines.

The only bill that would increase transportation revenues that is alive in the House is HB 1579 sponsored by Delegate Glen Oder's HB 1579. The bill would earmark future revenue growth at the Ports in Hampton Roads, Richmond Port, the In-Land Port, and future growth in Northern Virginia's income tax to transportation needs in those designated areas. Delegate Oder's bill faced opposition from those criticizing the diversion of general funds (including those representing the education community). Despite the opposition, the Transportation Subcommittee recommended that the bill be reported and referred to the House Appropriations Committee.

Overweight Trucks

It appears that, in the Senate, the over weight vehicle permitting fee legislation is dead for the year. Transportation Chair, Yvonne Miller, with the concurrence of the Senate Transportation Committee, had her bill (SB 1048) and Senator George Barker's (D-Fairfax County) SB 1500 sent to the Transportation Accountability Commission for study. Both bills will not be considered by the Senate.

This leaves Delegate Marshall's (R-Prince William County) HB 2319 as the only bill that would increase permitting fee on certain vehicles by \$500 or more. We have been told by several members that the House Leadership does not support this bill. We will continue to educate members of the House with our vigorous lobbying effort.

Parking Restrictions for Certain Vehicles

We have reached a compromise with Delegate David Albo regarding his bill that would restrict parking of certain vehicles in residential areas in designated localities in Northern Virginia. HB 1694 would have restricted parking to any vehicle designated as a truck, which would have captured a variety of vehicles. Delegate Albo agreed to limit the application of the bill to vehicles that are over 20 feet in length. The amended bill passed out of the House unanimously.

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Composite view with notes

Bills	Committee	Last action	<u>Date</u>
HB 1579 - Oder - Transportation funding, etc; certain revenues attributable to economic growth in Hampton Roads, etc.	(H) Committee on Transportation	(H) Subcommittee recommends reporting and referring to Appropriations	01/29/09
HB 1580 - Oder - Hampton Roads Transportation Authority; abolished.	(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) Read first time	01/30/09
HB 1633 - Saxman - Offshore drilling; apportions royalties that State receives to certain funds and programs.	(H) Committee on Appropriations	(H) Reported from Appropriations with amendments (21-Y 3-N)	01/30/09
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) Subcommittee recommends reporting with amendment(s)	01/29/09
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) Subcommittee recommends laying on the table by voice vote	01/29/09
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) Incorporated by Transportation (HB1628-Cole)	01/29/09
HB 1694 - Albo - Parking; allows certain counties and towns to prohibit parking of certain vehicles on streets.	(H) Committee on Transportation	(H) Read first time	01/30/09
HB 1710 - Oder - Contracts; certain indemnification provisions in construction contracts declared void.	(H) Committee on General Laws	(H) Subcommittee recommends referring to VA Housing Commission by voice vote	01/27/09
HB 1723 - Albo - Highway Maintenance and Operating Fund; provides a formula for allocating proceeds.	(H) Committee on Transportation	(H) Subcommittee recommends reporting and referring to Appropriations	01/29/09
HB 1728 - Cole - Road impact fees; allows localities to reduce or exempt fee for commercial development.	(H) Committee on Counties, Cities and Towns	(H) Subcommittee recommends laying on the table by voice vote	01/29/09
HB 1752 - Carrico - Weight limits for gravel	(H) Committee on	(H) Read first time	01/30/09

trucks; repeals sunset provision on statute.	Transportation		
HB 1759 - Marshall, R.G. - Transportation Capital Projects Bond Act of 2009; created.	(H) Committee on Transportation	(H) Subcommittee recommends reporting and referring to Appropriations	01/29/09
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) Subcommittee recommends laying on the table by voice vote	01/29/09
HB 1839 - Albo - Commercial real estate tax; used for local projects and construct new roads.	(H) Committee on Finance	(H) Subcommittee recommends laying on the table by voice vote	01/28/09
HB 1848 - Lingamfelter - Transportation; Auditor of Public Accounts to administer operational performance audit.	(H) Committee on Appropriations	(H) Assigned App. sub: Transportation (May)	01/23/09
HB 1993 - Bulova - Highway maintenance funds; requirements for Commonwealth Transportation Board in allocating.	(H) Committee on Transportation	(H) Subcommittee recommends referring to Appropriations by voice vote	01/29/09
HB 1995 - Bulova - Northern Virginia Transportation Authority; adds Cities of Alexandria, etc., to use % of revenues.	(H) Committee on Transportation	(H) Read second time and engrossed	01/30/09
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) Tabled in Transportation	01/29/09
HB 2066 - Hamilton - Public-Private Transportation Act of 1995; establishes provisions that apply.	(H) Committee on Transportation	(H) Subcommittee recommends reporting with amendment(s)	01/29/09
HB 2073 - Scott, E.T. - Weight limit extension; vehicles using an auxiliary power unit or idle reduction technology.	(H) Committee on Transportation	(H) Read second time and engrossed	01/30/09
HB 2075 - Scott, E.T. - Overweight/oversize vehicle permits; violation of terms & conditions thereof does not void permit.	(H) Committee on Transportation	(H) Assigned Transportation sub: 1	01/30/09
HB 2076 - Oder - Tolls; prohibits imposition & collection of tolls for use of portions of I-64 & I-664.	(H) Committee on Transportation	(H) Subcommittee recommends laying on the table by voice vote	01/29/09
HB 2079 - Oder - Hampton Roads Bridge-Tunnel; VDOT to accept unsolicited proposals to add capacity thereto.	(H) Committee on Transportation	(H) Subcommittee recommends reporting	01/29/09
HB 2099 - Orrock - George Washington Toll Road Authority; created, encompasses City of Fredericksburg, etc.	(H) Committee on Counties, Cities and Towns	(H) Assigned CC & T sub: 1	01/30/09
HB 2117 - Nichols - HOT lanes; prohibits on any portion of I-95 between Potomac River and City of Fredericksburg.	(H) Committee on Transportation	(H) Tabled in Transportation (14-Y 8-N)	01/29/09

HB 2118 - Nichols - Secondary highway system construction allocations; allocates among counties on basis of population.	(H) Committee on Transportation	(H) Assigned Transportation sub: 4	01/30/09
HB 2121 - Nichols - Public Procurement Act; verification of legal presence of contractors for employment.	(H) Committee for Courts of Justice	(H) Referred to Committee for Courts of Justice	01/29/09
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) Incorporated by Transportation (HB1752-Carrico)	01/29/09
HB 2194 - Watts - Motor fuels tax; rate increase used for transportation purposes.	(H) Committee on Finance	(H) Subcommittee failed to recommend reporting	01/28/09
HB 2202 - Vanderhye - 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) Subcommittee recommends striking from the docket by voice vote	01/28/09
HB 2480 - Hugo - Real property tax; commercial property in Northern Virginia and Hampton Roads.	(H) Committee on Finance	(H) Subcommittee recommends reporting with amendment(s)	01/28/09
HB 2485 - Nichols - Vehicle safety inspections; codifies exceptions thereto set forth in proclamation of July 2006.	(H) Committee on Transportation	(H) Read first time	01/30/09

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) Assigned CC & T sub: 2	01/30/09
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	01/21/09
HB 2622 - Marshall, D.W. - Salem Highway Construction District Transportation Revenue Fund; established.	(H) Committee on Transportation	(H) Referred to Committee on Transportation	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) VOTE: BLOCK VOTE PASSAGE (96-Y 0-N)	01/30/09
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) Read third time and passed Senate (40-Y 0-N)	01/27/09
SB 874 - Ticer - Mobile telephone and other wireless electronic devices; use of hands-free accessory while driving.	(S) Committee for Courts of Justice	(S) Rereferred to Courts of Justice	01/28/09
SB 900 - McDougle - Contractor performance bonds; amount for locally administered transportation improvement 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) Passed by for the day	01/30/09
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) Passed by in Transportation with letter (13-Y 0-N)	01/29/09
SB 1101 - Herring - Racing Commission; authorizes wagering on historical horse racing.	(S) Committee on General Laws and Technology	(S) Stricken at request of Patron in General Laws and Technology (15-Y 0-N)	01/28/09
SB 1137 - Petersen - Northern Virginia Transportation Authority; adds Cities of Alexandria, etc., to use % of revenues.	(S) Committee on Local Government	(S) Read second time and engrossed	01/30/09
SB 1138 - Petersen - Parking on public highways; counties & towns to regulate transporting commercial freight externally.	(S) Committee on Transportation	(S) Read third time and passed Senate (30-Y 9-N)	01/28/09
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) Stricken at request of Patron in General Laws and Technology (15-Y 0-N)	01/28/09
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) Read third time and passed Senate (36-Y 4-N)	01/28/09
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 - McDougle - 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 Finance	(S) Rereferred to Finance	01/29/09
SB 1498 - Barker - Motor fuels tax; converts rates to percentage that shall be calculated by DMV Commissioner.	(S) Committee on Finance	(S) Referred to Committee on Finance	01/23/09
SB 1500 - Barker - Overload and overweight permits; to establish a new schedule of fees.	(S) Committee on Transportation	(S) Passed by in Transportation with letter (13-Y 0-N)	01/29/09
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; created.	(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) Printed as engrossed 096581284-E	01/30/