Overview of Proposed Substitute to HB 2527

Transportation Subcommittee of House Appropriations

January 31, 2011

Use of General Funds for Transportation

- HB 2527 as introduced included a new Code section which would authorize the Governor, in years when the general fund revenue forecast exceeded 5%, to dedicate up to 2% of the growth to transportation
- Some Members expressed concern that this would conflict with similar existing Code language the General Assembly adopted in 2002 to ensure that in years of high revenue growth, a portion of growth is directed to nonrecurring costs
  - ✓ Intent was to ensure that operating programs did not grow at unsustainable levels
- Substitute instead amends existing Code provisions in §2.2-1509.1 to allow for the use of general funds for transportation OR capital outlay projects
  - ✓ These are general fund amounts that already must be used only for nonrecurring activities

Use of Surplus and Year-End Balance

- As introduced, HB 2527 stipulated that 2/3 of all year end revenue surpluses and agency balances would go to transportation provided that the required Rainy Day Fund deposit was made
- Some Members expressed concern that this would bump transportation above the Water Quality Improvement Fund,
- Others Members expressed concern that this would remove any authority to allow agencies to retain balances and/or to pay outstanding bills
- Part of the difficulty was that the existing Code language – which was drafted as instructions to the Comptroller - treated true revenue surpluses – which are amounts collected in excess of the revenue forecast and thus were NOT appropriated, the same as agency balances that already have been appropriated but not spent

Use of Surplus and Year-End Balance

- The substitute tried to address these concerns by separating these issues as follows:
  - ✓First, it separates the definition of revenue surplus from year-end balances to eliminate confusion
  - ✓Second, it would dedicate 2/3 of all revenue surpluses to transportation and 1/3 to the Water Quality Improvement Fund
    - WQIF now receives 10% of funds available
  - ✓Third, it separately defines agency balances as amounts appropriated yet not spent by year-end and retains the existing provisions relating to the flow of the encumbered portions of these funds
  - ✓Finally, it authorizes the remaining unencumbered balances to be used for non-recurring activities (current law) but expands the definition of non-recurring activities to include transportation

Revenue Sharing Program

- The existing VDOT Revenue Sharing Program provides 1:1 matching funds for localities for highway improvements within their jurisdiction
- Current Code language (§33.1-23.05) limits state project level contribution to $1 million per project and limits the total program size to $50 million per year and includes language governing which projects should receive priority under the program
- HB 2527 as introduced would have eliminated 1.) the per project limit, 2). the overall annual programmatic limit and 3). any prioritization language
- Some members were concerned that this eliminated all the legislative oversight of the program
- The substitute instead would do the following:
  - ✓ Increase the per project cap within the program from $1.0 to $10.0 million
  - ✓ Increase the maximum program size from $50.0 million to $200.0 million
  - ✓ Retain the current language that requires that eligible projects be either in the Six Year Improvement Program or a locality's capital improvement plan

Virginia Transportation Infrastructure Bank

- HB 2527 as introduced included both an Infrastructure Bank fund as well as a separate Bank Board to administer the program
- HB 1500 includes $150 million general fund and $250 million NGF in FY 2012 to provide initial capitalization for a newly created Virginia Transportation Infrastructure Bank (VTIB)
  - ✓ The general fund portion comes primarily from the FY 2010 year-end surplus and other FY 2010 unencumbered balances
  - ✓ The NGF portion represents existing VDOT revenues identified during the audit conducted this fall
- The Fund would be used to provide loans to private entities and local governments and also would authorize up to 20% of the funds to be used for grants to local governments
- The intent of the fund is to help offer low interest rate loans to help put some public support into public-private partnerships, and provide grants to localities and transportation and transit authorities to help expedite transportation projects

Virginia Transportation Infrastructure Bank

- Some members expressed concern about the structure proposed for the Bank Board because the introduced bill would create an independent political subdivision to select projects and manage the financings
- After discussions among Members and the Administration, the substitute would:
  - ✓ Create an Infrastructure Bank Fund as a sub-account of the Transportation Trust Fund
  - ✓ Empower the Commonwealth Transportation Board to review and recommend projects in the same manner in which they already do for PPTA projects
  - ✓ Authorize the Virginia Resources Authority to manage the financial aspects of the transactions
  - ✓ These changes would utilize existing entities with the appropriate areas of expertise, and eliminate the need to create a stand-alone entity with broad authority

GARVEEs

- Direct Grant Anticipation Revenue Vehicles, or GARVEEs, are bonds backed by future federal highway reimbursements for individually approved federally-authorized projects
  - ✓ They are not state debt and do not require a pledge of the full faith and credit of the Commonwealth
  - ✓ Under Direct GARVEES, reimbursements from the federal government cover the financing and interest costs of the debt, as well as the actual project costs
  - ✓ GARVEEs, because they are project specific are much more transparent and link actual projects to expenditures, protecting the remainder of VDOT's federal apportionment
- How do direct GARVEEs work?
  - ✓ VDOT would apply to the Federal Highway Administration to use direct GARVEEs to finance a <u>specific</u> project
  - ✓ The CTB would then issue bonds for a project or group of projects that have already been approved by FHWA
  - ✓ The projects would then be constructed with the bond proceeds
    - VDOT intends to use available toll credits for the "state" match thus eliminating the need to put any state funds into the project
  - ✓ VDOT then would bill FHWA for the debt service including interest twice a year until the debt is retired – debt service would be paid entirely from Virginia's federal apportionment of highway funds

GARVEEs

- Based on concerns heard from Members that this would add an additional layer of federally-related debt, the substitute would repeal the existing authority to issue any additional FRANs, (Federal Revenue Anticipation Notes)
  - ✓ This language is in the 3rd enactment clause at the end of the bill
- The substitute also links the authorization amount for the GARVEEs to the pre-existing authorization under FRANs, minus any amount of FRANs still outstanding
  - ✓ Debt service on first issuance of FRANs paid off this biennium, all are paid off by 2016
- Virginia's federal highway apportionment comes from the federal highway trust fund monies returned to the state
  - ✓ Absent repeal of the federal gasoline tax or a decision to use all federal gas tax revenues for other purposes, these funds will flow back to the states
  - ✓ VDOT's average apportionment has been just less than $1.0 billion, meaning maximum share required for debt service would be about 10%

Passenger Rail Capital and Operating Fund

- HB 2527 creates an Intercity Passenger Rail Capital and Operating Fund to support capital and operating expenses associated with intercity passenger rail
- The substitute retains this provision and adds reference to existing language in Title 33.1 which authorizes the CTB to transfer up to 10% of TTF funds to particular rail projects if it determines they would reduce congestion
- The reason for this fund is to address provisions of the Federal Passenger Rail Investment and Improvement Act (PRIA), which transfers to the states responsibility for capital and operational funding of all "regional" trains not part of long-haul corridors
- Virginia has 2 trains from Newport News to Washington and 2 from Richmond to Washington each day as well as the two new intercity regional passenger trains – Lynchburg and Richmond to the northeast corridor that could be impacted by this provision beginning in 2013
  - ✓ Because the federal regulations are not finalized, we do not know the precise costs to be shifted to the state

HB 3202 Bonds

- HB 3202 authorized $3.0 billion in Capital Project Revenue Bonds
  - ✓ The authorization was subsequently increased to $3.18 billion in 2008
  - ✓ HB 3202 capped annual issuances to $300 million of bonds, with any unused prior year issuance authority to be carried forward
- No bonds were issued in FY 2008 or FY 2009; the first issuance of $492.0 million was sold in May, 2010
- Because the unused amounts carry-forward, the current biennium includes $408 million in carry forward authority as well as $300 million additional in each year, FY 2011 and FY 2012
  - ✓ The Debt Capacity Model updated this December assumed the issuance of $493 million in bonds in FY 2011 and $500 million in bonds in FY 2012
- As introduced, HB 2527 would replace the $300 million annual issuance cap and replace it with a $600 million cap
- Based on the Department's actual cash-flow needs, the substitute would accelerate $200 million of the previously authorized bonds in the current biennium and $300 million in FY 2013