To: Chairman Smedberg and the VRE Operations Board

From: Doug Allen

Date: December 20, 2013

Re: Discussion of the Legislative Agenda and Possible Action

Background:

At the November 15, 2013 VRE Operations Board Meeting the Board approved the 2014 Legislative Agenda; however, the Board also indicated that further discussion was warranted with regard to the upcoming changes to the weighted voting formula and whether pursuit of changes to the legislation should be included in an amended 2014 Legislative Agenda. A resolution is provided in case the Operations Board opts to take action.

The possible amendment could read as follows:

**Governance**

- Seek changes to the weighted voting legislation adopted in the 2013 General Assembly session.

**Fiscal Impact:**

There is no direct funding impact associated with adopting this agenda item.
Federal

Monitor Issues Related to Positive Train Control

Under the US Rail Safety Improvement Act of 2008, Congress mandated that the Federal Railroad Administration fully implement Positive Train Control (PTC) by 2015. VRE continues to work with the host railroads to ensure that our PTC implementation is coordinated with their systems and in compliance with the federally mandated deadline. VRE will monitor and respond appropriately to PTC issues as we continue to implement the mandated system.

Monitor and Pursue Funding Opportunities for Corridor Improvements

VRE will continue to partner and support the efforts of the Commonwealth and host railroads to facilitate funding to improve railroad capacity on both lines and at Washington Union Terminal. VRE will also continue to work with the private sector and Congress on potential public-private partnerships that could bring improvements to the Virginia Railway Express system and host railroads.

Advocate for Commuter Benefits Equity

VRE will continue to advocate for legislation to make commuter benefits equal to parking benefits in the Internal Revenue Code.

State

Seek Funding for Track Access Fees

VRE operates on the host railroads’ infrastructure. The host railroads are paid fees according to long standing agreements that are periodically updated. VRE provides significant capacity within the most congested highway corridors in Virginia (I-66, I-
and I-395) and is an important partner with the Commonwealth in helping mitigate congestion in these critical highway corridors. From its inception, the Commonwealth has provided funds for these track access fees in the state budget using federal pass through funds. VRE will seek the continuation of funding from the Commonwealth for track access. If VRE is unable to receive this funding there will be significant budget ramifications.

Monitor for Legislative Opportunities

VRE will monitor legislation for opportunities to advance the following issues:

- Amend the Virginia Code to allow VRE to receive interest on the Insurance Trust Fund. While past practice allowed VRE to receive interest from these funds, the 2011 Acts of Assembly reversed this policy. The proceeds are now retained by the Commonwealth despite the fact that the Insurance Trust Fund was primarily established by and is replenished with local funds.

- Amend the Virginia Code to allow VRE to recoup a portion of the fines imposed on fare evasion cases. Currently, when a conductor is required to attend court, VRE must pay for their appearance in court as well as for another conductor to be on the train. Cumulatively, this puts the financial burden for prosecution on VRE while all fines are directed to the Commonwealth Literary Fund.

- Amend the Virginia Code to allow the Courts to increase fines for repeat offenders travelling on VRE trains without a valid ticket.

- Amend the Virginia Code to cap liability for commuter rail operations. The existing cap enacted in a prior session excludes third party claims. VRE will also seek exemption for both freight railroads and VRE from liability for terrorism.

- Amend Chapter 774 of the Virginia Code that increases the aggregate awardable liability claim a rail passenger can make per incident (as requested by the Virginia Trial Lawyers Association in 2006). Under the current Code, the threshold (now $100,000) will be amended upward each year based on the percentage change in the medical care component of the Consumer Price Index (as published by the Bureau of Labor Statistics). The first increase took place in January 2012. This policy could increase the existing $250 million liability insurance threshold imposed by the Class 1 freight railroads. VRE would advocate for the elimination of the annual index increase.
Virginia Railway Express
Operations Board

Resolution
8I-12-2013

Amendment to Approved 2014 Legislative Agenda

WHEREAS, the VRE Operations Board passed a resolution opposing SB 1210 and HB 2152 in the Virginia General Assembly in at the January 18, 2013 Operations Board meeting; and

WHEREAS, HB 2152 was passed by the Virginia General Assembly in February 2013 and was approved by Governor Robert McDonnell in March 2013 to take effect on July 1, 2014; and

WHEREAS, the legislation provides that for each year in which the state contribution to the railway is greater than or equal to the highest contribution from an individual jurisdiction, the jurisdictional subsidy used to determine vote weight shall be recalculated to include the Commonwealth contributing an amount equal to the highest contributing jurisdiction and the vote weight shall be recalculated to provide the Chairman of the CTB or his designee the same weight as the highest contributing jurisdiction, and

WHEREAS, the VRE Operations Board opposed the legislation last year because there is no commitment from the Commonwealth to pay an annual subsidy, and

WHEREAS, the VRE Operations Board approved a 2014 VRE Legislative Agenda on November 15, 2013 that did not include an item seeking changes to the weighted voting legislation adopted in the 2013 Virginia General Assembly session, and

WHEREAS, the VRE Operations Board, upon further discussion, seeks to amend the 2014 Legislative Agenda to include an item seeking changes to the weighted voting legislation.
NOW, THEREFORE, BE IT RESOLVED THAT, the VRE Operations Board recommends that the Commissions approve an amendment to the 2014 VRE Legislative Agenda seeking changes to the weighted voting legislation and authorize the Chief Executive Officer to actively pursue those changes.

Approved this 20th day of December 2013.

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Paul Smedberg
Chairman

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John Cook
Secretary