To: Chairman Cook and the VRE Operations Board
From: Doug Allen
Date: September 18, 2015
Re: Draft 2016 Legislative Agenda

The VRE Operations Board is asked to provide comment on the draft 2016 VRE Legislative Agenda. The Operations Board will be asked to take action in October recommending a Legislative Agenda to the Commissions.

**Background:**

Annually, VRE prepares a Legislative Agenda to communicate VRE Legislative priorities in coordination with the Commissions and local jurisdictional staff. Advocacy positions related to specific federal and state legislation are presented.

**VRE 2016 Legislative Issues**

**Federal Legislative Issues:**

**Issue 1: Congressional Approval of an extension to the deadline for Positive Train Control (PTC) Implementation**

- Continue working with the Virginia Congressional delegation and other members of Congress to extend the PTC deadline.
The Rail Safety Improvement Act of 2008 requires the implementation of interoperable positive train control systems for passenger trains and trains carrying hazardous materials by December 31, 2015.

VRE, as well as most commuter rail agencies and Class I railroads, are not able to comply with the year-end deadline and need to request Congress extend the PTC implementation deadline to allow time to achieve full implementation of PTC.

Unless Congress acts to extend the December 31, 2015 deadline, VRE will likely be forced to cease service.

**Issue 2: Commuter Benefits Equity**

- Advocate for legislation to make commuter benefits permanently equal to parking benefits in the Internal Revenue Code.

On July 21, 2015 the Senate Finance Committee passed a tax extenders bill that proposed to increase the commuter benefit from $130 to $250/month, retroactive to January 1, 2015, extending through December 2016. The Senate bill was not assigned a bill number before they left for recess.

- U.S. Representative King (D-NY) introduced H.R. 990 that would permanently extend the benefit at $235/month with an annual inflation adjustment. Representative Holmes-Norton (D-DC) introduced H.R. 1046 a $250/month plus inflation and permanent parity bill.

- While VRE is supportive of both bills, H.R. 990 is revenue positive over ten years and may have a greater chance of success in the House as H.R. 1046 affects the deficit.

**Issue 3: Reauthorization of a Long-term Federal Transportation and Infrastructure Authorization Bill**

- MAP-21, the current authorization law, expires October 29, 2015.

- Support long-term, dedicated funding mechanisms that ensure the solvency and supplement the Highway Trust Fund and its Mass Transit Account.

- Support robust funding levels for Capital Investment Grants (New Starts & Core Capacity) that may assist VRE in funding major capital expansion projects such as third tracking on the Fredericksburg Line, extension of service to Gainesville – Haymarket, and construction of a new or expanded Long Bridge over the Potomac River from Virginia into Washington, D.C.
Issue 4: Commuter Rail Liability Insurance Limit

- Work with the Virginia Congressional delegation and other members of Congress to oppose the increase to the liability cap.
- The U.S. Senate passed its version of a six year authorization bill which includes language increasing the rail liability award cap from $200 million to $295 million and index it to inflation.
- The cost to VRE to increase its liability insurance from $250 million (the current amount of insurance coverage VRE is contractually obligated to purchase) to $295 million is estimated at $225,000-$250,000 annually.
- Beyond the increased operations costs of this proposed legislation, VRE host railroads and peer agencies oppose the increased cap as it raises the potential for ever larger and continuous costs and liability requirements for the industry.

Issue 5: Definition of the Northeast Corridor (NEC)

- The existing legal definition of the NEC includes the District of Columbia as the southern end of the corridor (49 U.S.C. 24102(5)), but operationally has not included tracks south of CP Avenue where Washington Terminal Company (WTC) territory begins. VRE currently contracts to run on WTC tracks and does not go north of CP Avenue. The Senate passed H.R. 22 on July 30, 2015 with language that appears to extend the NEC to encompass the WTC territory.
- VRE is concerned that extending the NEC to encompass the WTC territory may expose VRE to increased costs and complicate our ability to use the Surface Transportation Board (STB) to intercede on issues regarding access to Washington Union Station. (The STB does not have jurisdiction over Amtrak but does over the WTC).
- Staff proposes to work with the Virginia Congressional delegation and other members of Congress to analyze the effects of this language and pursue options that resolve VRE concerns.

State Legislative Issues:

Issue 1: Protective Floor for the Regional 2.1% Motor Fuels Tax

- VRE will work with its parent commissions on the creation of a “protective floor” for the regional 2.1% motor fuels tax. The existing regional 2.1% motor fuels tax generated less revenue than expected due to the drop in fuel prices.
• We support a “protective floor” similar to what the General Assembly provided for the statewide fuels sales tax as part of HB 2313. The VRE member jurisdictions where the 2.1% tax is levied have seen a drop in the tax yield of 25% in the past year. Enacting a “protective floor” for the regional gas tax will provide an equitable solution for dropping fuel prices and put the regional motor fuels tax in the same posture as the statewide motor fuels tax.

Issue 2: Explore, Identify and Secure Additional VRE Capital and Operating Funding

• As VRE implements the 2040 System Plan, it is developing an accompanying Financial Plan that identifies capital and operating requirements needed to implement the plan.

• One of the key findings in the Financial Plan is the clear need for increased funding, even without the proposed expansion of service.

• The local jurisdiction members of VRE are financially constrained in their ability to fund existing VRE operations and capital needs and will experience even greater challenges in securing funding for operational and capital costs identified in the System Plan. VRE needs to explore, identify and secure a long term, dependable funding source for both existing and future operations and capital costs.

• Options for increased funding will be pursued to fund future operating scenarios.

Issue 3: State Law related to Architectural and Engineering Term Contracting

• Transportation District Commissions, such as NVTC and PRTC, are limited in their ability to contract for Architectural and Engineering (A&E) services for multiple construction projects (e.g. General Engineering Contracts) to $500,000 in any one year period. Since all VRE contracts are on behalf of and in the name of our parent Commissions, this limitation affects the ability to obtain these services for VRE.

• Staff recommends pursuing an amendment to State law to include Transportation District Commissions in existing exceptions to limits on contracting for A&E services for multiple construction projects so that the sum of all projects performed in a one-year contract term can increase from $500,000 to up to $6 million. The suggested change to §2.2-4303.1.B.2 is insertion of the bolded language:

  o 2. Any locality or any authority, sanitation district, metropolitan planning organization, TRANSPORTATION DISTRICT COMMISSION, or planning district commission with a population in excess of 80,000, or any city within Planning District 8, the sum of all projects performed in a one-year contract term shall not exceed $6 million and those awarded for any airport as defined in § 5.1-1 and aviation transportation projects, the sum of all such projects shall not exceed $1.5 million.