

8. EXISTING RAIL FUNDING PROGRAMS IN VIRGINIA

8.1. FRA Requirements

This chapter of the Virginia State Rail Plan (VSRP) presents information related to Virginia's three freight rail funding programs and funding mechanisms for Passenger Rail as required by 49 CFR § 266.15 (c)(1).

This chapter of the VSRP also presents information in sections 8.3, 8.4, and 8.6 required by 49 CFR § 266.15 (c)(4) , 49 CFR § 266.15 (c)(5), 49 CFR § 266.15 (c)(6), and 49 CFR § 266.15 (c)(7).

8.2. Overview

DRPT administers approximately \$200 million annually in financial support for capital and operating and maintenance costs of public transportation services across the Commonwealth. Federal and state aid is provided to supplement revenues collected from fares and local funds provided in support of public transportation operations such as the following:

- Financial support for projects that demonstrate new public transportation services or techniques in service delivery.
- Financial support for training for drivers, mechanics and professionals working for Virginia's public transportation systems.
- Financial support for the operations of Commuter Assistance Agencies and the delivery of services to businesses and the general public.
- Federal and state financial support for the procurement of vans and small buses used for the transport of elderly and disabled clients by private non-profit agencies.
- Financial assistance to business and industry to defray the costs of rail development on industrial sites and reduce truck traffic.
- Financial assistance to shortline railroads to defray the costs of capital infrastructure projects that assist in the preservation of rail service to areas of the Commonwealth that otherwise would not have this service.

DRPT's funding comes from transportation trust funds (52 percent), federal funds (21 percent), and local funds (27 percent). The majority of the transportation trust funds (\$186.0 million) come from the Mass Transit Trust Fund which represents DRPT's 14.7 percent allocation of the 1986 Special Session Revenue (Transportation Trust Fund). Commonwealth of Virginia Transportation Capital Projects Revenue Bonds (Code of Virginia § 33.1-23.4:01) provides \$60 million annually to the Mass Transit Capital Fund and \$12.9 million annually to DRPT rail programs. An additional \$26.6 million represents the state portion of vehicle rental taxes collected in the Transportation Trust Fund that is used for the Rail Enhancement Fund, and \$15.9 million is funded through the Highway Construction Fund or Highway Maintenance and Operating Fund.

Existing funding for rail development projects in the Commonwealth are provided through: the Code of Virginia § 33.1-221.1:1.1 – which established the Rail Enhancement Fund; the Virginia Transportation Act of 2000 was created by HB 608 in the 2000 General Assembly, which, among other actions, established the Priority Transportation Fund in §33.1-23.03:8; Code of Virginia § 33.1-23.4:01 - allocation of proceeds of Commonwealth of Virginia Transportation; and, Capital Projects Revenue Bonds discussed below.

The vast majority of annual funds are allocated to mass transit projects and operations (approximately 84 percent) with the remaining funds allocated to a variety of rail improvement projects (the subject of this Statewide Rail Plan). The typical annual expenses noted above do not include special appropriations that have been made by the Commonwealth for rail improvement projects.

The 2007 General Assembly session has provided record increases for statewide and regional transit funds beginning in FY09 that will benefit all of DRPT's programs. There will be approximately \$103 million in new statewide transit funds, representing a 42 percent increase in transit operating funds. HB3202 also dedicates a minimum of 20 percent of bond proceeds to major transit capital projects statewide. The Appropriations Act calls for an additional \$70 million in one-time transit funding for FY08, including \$19 million for new statewide transit capital, \$20 million for Metro railcars, \$15 million for VRE railcars, \$10 million for Norfolk Light Rail Transit and \$6 million for hybrid electric buses in Norfolk.

The bond package includes a minimum of 4.3 percent of available funds specifically for rail transportation. This equates to approximately \$4.3 million in FY08 and then \$12.9 million each year afterward to be administered through the Rail Enhancement Fund and the Rail Preservation Program for rail capital projects. In addition, the Appropriations Act includes \$65 million to support rail initiatives in the I-95 and I-81 corridors.

8.3. Rail Enhancement Fund

The Rail Enhancement Fund (REF) provides for the planning and implementation of passenger and freight rail projects in the Commonwealth. This fund is the primary source for the implementation of large capital projects for rail improvements.

Project funding is provided through the Code of Virginia § 33.1-221.1:1.1 – which established the Rail Enhancement Fund; the Virginia Transportation Act of 2000 was created by HB 608 in the 2000 General Assembly, which, among other actions, established the Priority Transportation Fund in §33.1-23.03:8; and Code of Virginia § 33.1-23.4:01 - allocation of proceeds of Commonwealth of Virginia Transportation and Capital Projects Revenue Bonds.

The Rail Enhancement Fund was established in 2005. The fund provides dedicated state funding for acquiring, leasing and/or improving railways or railroad equipment, rolling stock, rights of way or facilities for freight and/or passenger rail transportation purposes whenever the Commonwealth Transportation Board determines that it is for the good of a region of the Commonwealth or the Commonwealth as a whole. The source of revenues for the Rail Enhancement fund is a 3 percent vehicle rental tax (which is approximately \$23.5 million in FY08). In addition, state funds are provided to freight and passenger rail operators in accordance with VTA 2000 Appropriations and Capital Projects Revenue Bonds.

8.3.1. Program Overview

Under § 33.1-221.1:1.1 of the Code of Virginia, the General Assembly declared it to be in the public interest that the preservation and development of railway transportation facilities are important elements of a balanced transportation system in the Commonwealth. It further declared “it to be in the public interest that the retention, maintenance, improvement and development of the railways are essential to the Commonwealth’s continued economic growth, vitality, and competitiveness in national and world markets. The new law created in the state treasury a special non-reverting fund to be known as the Rail Enhancement Fund which is considered a special fund within the Transportation Trust Funds.

The Code states that the Director of the Department of Rail and Public Transportation (DRPT) “shall administer and expend or commit, subject to the approval of the Commonwealth Transportation Board, the Fund for acquiring, leasing, and/or improving railways or railroad equipment, rolling stock, rights-of-way or facilities, or assisting other appropriate entities to acquire, lease, or improve railways or railroad equipment, rolling stock, rights-of-way or facilities, for freight and/or passenger rail transportation purposes whenever the Board shall have determined that such acquisition, lease, and/or improvement is for the common good of a region of the Commonwealth or the Commonwealth as a whole.”

The Code further states that “Projects undertaken pursuant to this section shall be limited to those the Commonwealth Transportation Board shall have determined will result in public benefits to the Commonwealth or to a region of the Commonwealth that are equal to or greater than the investment of funds under this section. Such projects shall include a minimum of 30 percent cash or in-kind matching contribution from a private source, which may include a railroad, a regional authority, or a local government source, or, a combination of such sources.”

A Rail Advisory Board (RAB) consisting of nine members, appointed by the Governor, was established. The RAB, in consultation with the Director of DRPT, develops recommendations to be presented to the Commonwealth Transportation Board (CTB) regarding allocations of funds from the Rail Enhancement Fund.

The Director of DRPT administers and, subject to CTB approval, expends or commits funds from the Rail Enhancement Fund for the purpose of acquiring, leasing, and/or improving railways or railroad equipment, rolling stock, rights-of-way or facilities for freight and/or passenger rail transportation purposes. The Director of DRPT obtains the recommendation of the RAB before submitting a project involving the use of Rail Enhancement Funds to the CTB.

All projects receiving funds from the Rail Enhancement Fund must include a minimum of 30 percent cash or in-kind matching contribution from a private source, which may include a railroad, a regional authority, a local government source, or a combination of such sources. The remaining amount, up to a 70 percent maximum, will be the Commonwealth's grant to the project.

8.3.1.1. Program Policy Goals

The Program Policy Goals summarized below have been established for the Rail Enhancement Fund.

- Projects will provide an additional or accelerated investment in Virginia rail projects, which are determined to have a substantial public benefit equal to or greater than the public investment. The Rail Enhancement Fund provides funding for the development and improvement of rail infrastructure in Virginia and also for the acquisition of rolling stock, signal systems and equipment. The Rail Enhancement Fund will be used to fund projects and proposals found to have a public benefit that is equal to or greater than the public investment, and which are not likely to be completed in a timely manner without use of Rail Enhancement Funds.
- Projects will address the needs identified in the applicable state, regional and/or local plans, developed in consultation with public and private partners. Projects will generally address the needs identified in the applicable state, regional and/or local plans to the extent such plans exist, including VTrans2025, the Virginia State Rail Plan and those goals adopted by Governor Warner's *Commission on Rail Enhancement for the 21st Century*. In addition, projects must be in conformance to the Statewide Rail Plan developed by DRPT and adopted by the Commonwealth.
- Projects will encourage competition and economic development by promoting, or not precluding, access by more than one rail operator and whenever possible joint access by freight and passenger operators to optimize the Commonwealth's investment. Projects should maximize rail usage and promote competition whenever feasible. Projects in corridors that are utilized for both freight and passenger service must demonstrate that both types of service will benefit from the improvement. Where feasible, rail infrastructure related projects should not be designed to preclude access by more than one operator.
- Rail Enhancement Fund projects will be selected that support a multi-year strategic program of projects that leads to an integrated six-year rail (passenger/freight) improvement program. The Director of DRPT, in consultation with and with the assistance of the Rail Advisory Board, will develop recommendations for an annual program of projects that will be incorporated into the Commonwealth's Six-Year

Improvement Plan. In addition to considering applications, the Director of DRPT and the Rail Advisory Board may also recommend specific projects for consideration. Individual projects will be viewed in terms of how they benefit the overall rail network in Virginia.

- The Program will limit long term Commonwealth funding liability through the development of achievable project schedules and budgets. Consideration will be given to funding major projects over a multi-year period. Applications for projects will include detailed cost, schedule and budget information. For construction projects, applications that include preliminary engineering completed to 30 percent will receive more positive weight and consideration during the review process.
- Where feasible, projects will optimize public benefits by leveraging funds from sources other than the Rail Enhancement Fund. The law creating the Rail Enhancement Fund requires a minimum of a 30 percent cash or in-kind matching contribution from a private source, which may include a railroad, a regional authority, a local government source, or a combination of such sources. Projects are likely to receive more favorable consideration if a higher match ratio is proposed. Projects that are part of a larger package of improvements funded from other sources are encouraged and are likely to receive more favorable consideration. Additional investments above the minimum match requirement broaden the sharing of the risk and improve the chances of project success.
- Projects will protect the Commonwealth's public interest in private facilities. The Commonwealth will ensure that any improvements made with public funds remain available for the proposed public use for the useful life of the project. Contractual agreements will be written to protect the Commonwealth's public interest in the private facilities and to require compensation for the residual value of the investment if the public use ceases within the period of useful life.
- Projects will contribute to the effectiveness of the entire transportation system. Projects will promote congestion relief, encourage economic development, enhance the competitiveness of Virginia ports, airports, and multi-modal facilities, and promote safety, health and environmental benefits, and improve mobility or any combination of these objectives.

The following organizations (or any combination) are eligible to apply for Rail Enhancement funding:

- Commuter and Intercity Passenger Rail Operators
- Freight Rail Operators
- Private Businesses or Industries that currently utilize rail or are planning to develop railway facilities in the future
- Regional Authorities
- Local Governments
- Non-profit Organizations

Eligible expenses may include the following:

- Preliminary service, engineering, or feasibility study
- Final engineering
- Permitting
- Acquisition, lease, or improvement of rights of way or facilities
- Environmental mitigation directly related to the project
- Site preparation including grading, drainage and relocation of utilities
- Acquisition, lease, or improvement of railways, including signal and communications equipment
- Acquisition, lease, or improvement of railroad equipment
- Acquisition, lease, or improvement of rolling stock
- Public involvement expenses, as agreed

The Applicant/Designated Grantee shall be contractually committed to providing the Commonwealth with a contingent interest in that portion of rail improvement and facilities constructed or improved with the use of rail enhancement funds for a 15-year period of time. Said portion shall be defined by the agreement. Rail tracks and facilities shall be made available for use by all common carriers using the railway system to which they connect. A certification issued by the landowner or using business stating that they will provide for the continuous maintenance and assume the liability of the tracks and facilities.

The industry shall certify that it will provide the public benefits indicated in the project application (on-time performance for passenger services, number of new containers carried on the system to divert freight from trucks to rail, etc.)

The grant recipient will be required to repay the Department its contribution to the cost of the construction and materials, less depreciation if the rail improvements are abandoned, relocated or sold (without a grant assignment).

The grantee will also be required to repay the Department its contribution to the cost of the rail improvements if the annual public benefits stated in the application for the 15-year time period are not met.

8.3.2. Description of Benefit Cost Analysis

DRPT has developed a proprietary and unique benefit cost analysis based on MS Excel spreadsheets to determine the public benefits associated with applications for rail enhancement funds (CFR Sec. 266.15 FRA Requirements for State Rail Plan – [c.5] methodology for determining ratio of benefits to costs). Since its inception in 2006, the model has been refined by DRPT and consultants to the Department based on the use of the model on a wide variety of specific rail improvement projects. Fund applications for both freight and passenger projects are reviewed by DRPT to determine eligibility in accordance with the program policy goals. Eligible proposals are then assessed using the Department's public benefit/cost analysis (BCA). The Director determines the time frame for analysis (usually 15 years) though applicants may also suggest an appropriate time frame.

The BCA includes measures of public benefits some of which are particular to either passenger or freight projects. Examples of BCA measures include: reductions in externalities (associated with public investments, pollution, and congestion); public benefits from increased/retained employment; reductions in transportation costs; time savings; promotion of economic development; and reductions in accident costs. Projects that do not achieve a minimum benefit to cost ratio of 1.0 are not considered for funding, or in some circumstances the applicants matching funds are increased and the Commonwealth's funding are decreased until a B/C ratio of at least 1.0 is achieved.

The baseline for all performance measures and benefits are existing conditions for both passenger and freight movements. These existing conditions must be certified by the applicants applying for funding grants. The benefits used in the benefit cost analysis are only the new (additional) benefits that would be generated by the proposed rail improvement project itself above the current baseline conditions.

A matrix of the BCA model components used to estimate direct project public benefits over a 15 year project life is depicted in Figure 8-1. The model also computes a variety of important additional public benefits as depicted in Figure 8-2.

BCA model parameters are defined by project descriptions provided by fund applicants using standard forms included in DRPT funding application. The application forms include a detailed project description, as well as performance data provided by the applicant over a 15-year period that would result directly from the proposed project improvements (such as time savings, truck diversion by higher container usage by rail, ridership increases, on-time performance measures, distances traveled, etc.). In cases where the application only requested funding for a specific phase of a project (for example environmental and preliminary design), benefits are not based on the funding amount requested but are computed using the estimated full project cost (design plus construction) to analyze the transpiration benefits at the completion of the full project.

Beneficiary	Type of Benefit			
	Financial	Safety	Time Savings	Environmental
Remaining Highway users			Congestion Relief (Passenger & Freight)	
New passengers	Reduced Transportation Costs	Reduced Crash and Accident Cost (Passengers)		
Existing passengers			Travel Time Savings (Passengers)	
General public	Shipping Cost Reduction (Freight)	Safety Improvements (Freight)		Environmental Improvements (Passenger & Freight)
Public sector	Pavement Maint. Cost Savings (Passenger & Freight) Avoided Highway Construction Cost (Passenger & Freight)			
Private sector		Reduced Crash and Accident Cost (Freight)	Reduced Inventory Costs (Freight)	

Figure 8 - 1 Summary of BCA Model Components

Category	Basis of Measure
Reduction in Highway Use	Number of Vehicles; Number of Trucks
Added Capacity to Corridor	Passengers; Freight Cars
Fuel Savings	Due to shift in mode; Due to infrastructure change
Increased Competition	Reduction in shipping rates from trucks to rail
Employment	Due to new construction, new rail service; retained employees
Reduced Emissions	Tonnage of CO ₂

Figure 8 - 2 Summary of Additional Benefits

8.4. Rail Preservation Fund

The Rail Preservation Fund (RPF) provides funding for the preservation and continuation of existing rail service to increase productivity, safety and efficiency of shortline railway transportation logistics in Virginia. Through projects funded by the Rail Preservation Program, a transportation alternative is provided to business and industry in areas of the Commonwealth that otherwise would not have these alternatives if the program did not exist. This program has become a key component of the Commonwealth's initiative to attract and maintain business in Virginia.

Project funding is provided through the Code of Virginia § 33.1-221.1:1.2 – which established the Shortline Railway Preservation and Development Fund; and the Code of Virginia §33.1-23.4:01 - Allocation of proceeds of Commonwealth of Virginia Transportation and Capital Projects Revenue Bonds. Not excluding special allocations, the rail preservation fund is allocated \$3 million annually for shortline rail improvement projects.

Business and industry in the Commonwealth will continue to expand or locate their services to meet the increasing demand for industrial and commercial development. The Rail Preservation Program assists with the continuation of rail services to remote areas that otherwise would not have rail service. Funding to the Commonwealth Railway shortline has continued rail service to the West Norfolk area of Portsmouth and resulted in providing rail service to the new APM Terminal which was constructed on the Commonwealth Railway rail line. The APM container terminal development is the single largest private investment in Virginia history. APM, in part, chose Virginia for its dual (CSX & NS) rail access opportunities offered by connection to a shortline railroad. As all Class I railroads work to maximize the assets of the company, more shortline railroads will be created and rail lines will be taken out of service. The increased demand of the stockholders of the larger railroad companies will lead to an increase in shortline spin-offs and loss of service along existing rail lines.

8.4.1. Program Overview

It is the policy of the Commonwealth Transportation Board (CTB) to consider railways and rail corridors as important elements of the Statewide Transportation System. The CTB supports the use of funds for projects deemed important elements of the Statewide Transportation System. Such consideration includes support provided to appropriate entities in the acquisition, lease, or improvement of railways, and equipment, and the purchase of out-of-service or abandoned railway rights-of-way for transportation purposes that the CTB determines are for the common good of the Commonwealth or a region of the Commonwealth.

The Department of Rail and Public Transportation Director shall administer and expend or commit, subject to the approval of the CTB, such funds as may be set forth in the Appropriations Act for this purpose. Such funds may be expended or provided in the form of grants or loans to others to improve railways, equipment, or related facilities specific to rail operations on public or private property and to acquire or lease railway properties for transportation purposes. Any properties purchased can be leased to others for continuation of rail service. No funds shall be used for general railroad operating expenses. Costs incurred for the administration of approved projects shall be an eligible expense under this policy. Funds may be spent directly by the Director or by reimbursement of expenditures by the local entities, private or public.

In allocating funds for improvement, the CTB shall consider the project cost in relation to the prospective use, line capacity, and the economic and public benefits. In allocating funds for purchase, the CTB shall consider the potential for future public uses of the properties. The CTB shall adopt procedures for the allocation and distribution of the funds as may be provided, including provisions for safeguarding the Commonwealth's interest in all projects.

DRPT may develop projects for the consideration of the CTB or receive applications from others for such projects. Each application shall be accompanied by a resolution from the appropriate local government or Transportation District Commission supporting that such funds be allocated to the proposed project. Each application shall be considered on the basis of its merits.

As a general guide, no more than 50 percent of the funds shall be recommended for any single applicant in any fiscal year unless it is determined that there are not a sufficient number of applicants and applications to use the available funds, or a project has been determined to be of major significance to the Commonwealth. Final allocations shall be determined by the CTB.

In deciding whether to allocate funds for a project, the CTB shall consider the potential for future public uses of the property and/or the cost thereof in relation to the prospective rail use, and other economic and public benefits, and the common good of the Commonwealth or a region of the Commonwealth. Freight improvement projects must have a benefit-cost analysis of greater than 1.0, except in the case of a safety project which is not eligible under another safety program. Passenger projects will be based on service needed and capacity constraints. Projects may be considered for purchase if they have a potential for rail or other future transportation uses.

Funds may be provided to local governments, authorities, agencies, Transportation District Commissions or non-public sector entities for rail projects funded under the program at a maximum 70 percent state and minimum 30 percent local match. Funds provided for Class I rail operators for freight purposes may be in the form of loans to be repaid over a period of years at an interest rate to be determined by the DRPT Director and approved by the CTB. No funds may be used for general railroad operating expenses. These funds may also be used as a portion of the non-federal share for the utilization of federal funds by public or private parties. Funds may also be used to match other non-state grants obtained by the applicant. These funds will provide no more than 70 percent of the local share of the Federal matching requirement. Additionally, funds may be provided for administration of a project on a 70-30 match basis with a maximum administration reimbursement of 5 percent of the total projects cost or \$50,000 per year, whichever is less. Also, funds may be provided to assist in obtaining a qualified assessment and engineering of the necessary track structure and bridge improvement needs.

Funds may be granted or loaned to the current or prospective owners of a Shortline railroad to purchase or refinance operating railway properties. The maximum amount of any loan may be limited by the net liquidation value. The owners may repay part of the loan over 20 years at an interest rate to be determined by the Director, with approval by the CTB. The Commonwealth shall retain an interest in the property with an option to buy the balance if the rail operation is not continued as originally intended.

The actual amounts loaned, their repayments, schedules, loan provisions, and interest charged shall be established by the Director and approved by the CTB. The loan amounts shall not exceed the funds made available for any railway by the CTB. The Commonwealth

shall retain a contingent interest in any project for which loans are provided until such time as the Commonwealth has been reimbursed.

The Commonwealth may purchase lines for Shortline rail service or other transportation purposes. Said lines could be leased to others for rail transportation purposes at a rate to be determined and recommended by the Director, with approval by the CTB. Such lines purchased shall not be subject to a time limitation for retention.

The Commonwealth will retain an interest in materials installed in tracks, and facilities reconstructed or improved with grant funds from the Commonwealth until the Commonwealth's interest is repaid or the useful life as determined by the Director has expired (usually set at 15 years). The useful life determination shall have the approval of the CTB.

The recipient of funding shall be contractually committed to the perpetual maintenance of such tracks and facilities, and/or property and to the payment of any costs related to the future relocation or removal of such tracks and facilities. Where applicable, the recipients or their subcontractors shall also be contractually committed to provide for the continued operation of rail service as a common carrier and to assume all liability in connection with the implementation and operation of the project. The Commonwealth shall be advised of any change in the carrier status.

The Commonwealth may allow the recipient of funds to purchase the Commonwealth's interest in a railway, equipment, and facilities at a value determined by the Director with the approval of the CTB. In the event the recipient of funds desires to sell property or interest in railway equipment and facilities which have been acquired, reconstructed, or improved under this program, said sale shall be subject to the Commonwealth's vested interest and written approval.

The Commonwealth does not consider any rail with a weight of less than 100 lbs./yd to be an acceptable size for use in the track structure. Rail Preservation monies will not be utilized to pay for (or pay to have installed) any rail less than the minimum accepted size. The use of 112 lbs./yd rail or other low production rail is discouraged because of the scarcity of tie plates and joint bars.

DRPT's goal is to assist in bringing all Shortlines to a Class II Track Safety Standard operation as prescribed in the Track Safety Standards publication as part of the Federal Railroad Administration's Title 49 Part 213 regulations. The achievement of this plan will depend on the availability of funding. Once reached, the track shall be maintained at this level. This requirement may be waived in the case of an emergency. Additionally, applications for funds must provide a plan that outlines bringing their track structure and bridges to a minimum Class II Track Safety Standards and, if necessary, structures to a load limit of 286,000 pounds. These plans must be submitted at time of application. All applicants submitting request for funds starting in FY 2000 with rail lines below Class I Track Safety Standards must submit a plan to bring their rail lines to Class I Track Safety Standards within a reasonable amount of time.

8.5. Rail Industrial Access Funds

This program is administered by VDOT with the cooperation of DRPT for rail industrial access projects under the authority of § 33.1-221 of the Code of Virginia. Funding for these projects is provided through VDOT's Industrial, Airport, and Rail Access Fund and approved by the Commonwealth Transportation Board. The Rail Industrial Access (RIA) part of the program continues to serve as a local land use and economic development tool. Major industrial and commercial development today requires both well positioned highway and rail access. The Rail Industrial Access program brings forth a partnership opportunity with the industry, local government and DRPT to attract and retain industry and jobs while offering a viable transportation alternative to truck travel. As Virginia continues to promote economic development, the need for rail transportation access to industrial facilities will increase. Rail access funding under this program varies from year to year depending on the applications received by VDOT from all segments of the program and funds available, but in the past six years the RIA has averaged approximately \$3.3 million per year for project grants.

8.5.1. Program Overview

The General Assembly of Virginia as enacted under § 33.1-221.1:1 of the Code of Virginia declared its purpose for the Industrial Access Railroad Tracks Program. The General Assembly declared it to be in the public interest that access railroad tracks and facilities be constructed to certain industrial commercial sites where rail freight service is or may be needed by new or substantially expanded industry and that financial assistance be provided to areas seeking to furnish rail freight trackage between the normal limits of existing or proposed common carrier railroad tracks and facilities and the actual site of existing or proposed commercial buildings or facilities.

The Commonwealth Transportation Board on November 16, 1995 passed a resolution for the use of Industrial Access Railroad Tracks Program to provide funding which is intended to be used as an incentive to encourage industrial or commercial development in the Commonwealth of Virginia. It is intended to fund projects that will have a significant economic impact.

The following organizations are eligible to apply for Industrial Access Railroad Track funding:

- Business, Commercial or Industrial Enterprises
- Municipal and County Governments may apply for funding on behalf of a business, commercial or industrial enterprise
- Local Departments of Economic Development may apply for funding on behalf on business, commercial or industrial enterprise
- Railroads

Eligible project costs include the following:

- Site Preparation (including grading and drainage)
- Track Construction
- Track Reconstruction
- Track Improvement
- Engineering
- Environmental Mitigation

Funds may be used to construct, reconstruct, or improve part or all of the necessary tracks and related facilities on public or private property currently used or being developed, existing or prospective, for single industries or industrial subdivisions under firm contract or already constructed, including those subdivisions owned or promoted by railroad companies and others. Ineligible project costs include the following:

- Relocation of Utilities
- Switches and track to clear point connecting the access track to the main line
- Acquisition of Right-of-Way

No more than \$450,000 of the funds shall be allocated to any one county, town, or city in any fiscal year. No more than \$300,000 of unmatched funds may be allocated to any one project in any fiscal year. The unmatched funds may be supplemented with additional matched funds, in which case the matched state funds shall not be more than the annual locality allocation. Any funds in excess of \$300,000 shall be matched dollar-for-dollar by the recipient or from other non-program sources. The amount of industrial access railroad track funds allocated to a project shall not exceed 15 percent of the capital outlay of the designated business. The 15 percent limitation and the maximums on matched or unmatched funding may be waived at the discretion of the Board.

The Board shall, in the evaluation of projects, consider the cost of construction of an access track in relation to the prospective volume of rail traffic, capital investment, potential employment, or other economic and public benefits.

The Applicant/Designated Grantee shall be contractually committed to providing the Commonwealth with a contingent interest in that portion of trackage and facilities constructed or improved with the use of industrial access railroad track funds, for a 15-year period of time. Said portion shall be defined by the agreement. The access railroad track shall be made available for use by all common carriers using the railway system to which they connect. A certification shall be issued by the landowner or business using the access that states that they will provide for the continuous maintenance and assume the liability of the tracks and facilities.

The industry shall certify that it will provide the jobs and the rail traffic (carloads) indicated in the project application.

The grant recipient will be required to repay the Department its contribution to the cost of the construction and materials, less depreciation if the project tracks are abandoned, relocated or sold (without a grant assignment).

The grantee will also be required to repay the Department its contribution to the cost of the access track if:

- Rail use (carloads) is below the 15-year annual commitment levels specified to qualify the applicant for funding.
- Job commitment falls significantly below the 15-year annual commitment levels specified to qualify the applicant for funding.

8.6. Intercity, Commuter, and Passenger Rail Funding

The public transportation programs administered by DRPT continue to provide and improve the mobility and transportation choices for all Virginians and work to reduce traffic congestion in our urban areas. There are 56 public transportation services operating in Virginia. Services include: long-distance and commuter rail (Amtrak); commuter rail in Northern Virginia (Virginia Railway Express), Metrorail, bus transit, and passenger ferry services. The Code of Virginia §33.1-391.5 - describes the responsibilities of DRPT; and 49 U.S.C. Chapter 53, and the Federal Transit Act – establishes the statutory authority for the conduct of federally funded activities in passenger rail service.

Funding for passenger rail services is supported by federal and state transportation funds and local matching funds. The federal funds are administered by the Commonwealth and are apportioned annually to DRPT. The state funds are provided from the Mass Transit Trust Fund, the Mass Transit Priority Transportation Fund, and from the highway portion of the Transportation Trust Fund and are appropriated annually to DRPT. Funding for Amtrak is currently provided by the federal government for existing service routes in Virginia. Over the past six years, the Commonwealth has provided an average of 24 percent annual funding for the Virginia Railway Express in Northern Virginia as depicted in Figure 8-3 (CFR Sec. 266.15 FRA Requirements for State Rail Plan – [c.6.ii] revenues and costs).

8.7. Public-Private Transportation Act

The Code of Virginia, § 56-55 provides the policy of the General Assembly regarding the Public-Private Transportation Act of 1995. The Public-Private Transportation Act of 1995, as amended (the Act, or PPTA) is the legislative framework enabling the Commonwealth of Virginia, local governments, and certain other public entities as defined in the Act, to enter into agreements authorizing private entities to develop and/or operate qualifying transportation facilities. These implementation guidelines are for the Department of Transportation, the Department of Rail and Public Transportation, the Department of Aviation, the Department of Motor Vehicles, the Virginia Port Authority and other transportation agencies of the Commonwealth.

Public and private entities may also propose innovative financing methods, including the imposition of user fees or service payments under the provisions of the Act. Financing arrangements may include the issuance of debt, equity or other securities or obligations. A proposer may enter into sale and leaseback transactions and secure any financing with a pledge of, security interest in, or lien on, any or all of its property, including all of its property interests in the qualifying transportation facility.

While procedures incorporated in these guidelines are consistent with those of the Code of Virginia § 2.2-4301, per § 56-573.1 the selection process for solicited or unsolicited project proposals is not subject to the Virginia Public Procurement Act (§ 2.2-4300 et seq.).

To date, there have been no rail improvement projects that have been implemented under the provisions of the Commonwealth's PPTA program.

Revenue Source	FY 2007		FY 2006		FY 2005		FY 2004		FY 2003		FY 2002		6-Year Summary	
	Revenue (\$)	% of Total	Revenue (\$)	% of Total										
Operating Revenue (Fares)	\$19,892,119	26.5%	\$19,895,953	29.6%	\$19,573,535	34.7%	\$17,117,885	32.9%	\$15,340,348	30.8%	\$12,960,010	25.7%	\$104,779,850	29.9%
Non-Operating Revenues (Subsidy)														
VA DRPT	\$12,269,884	16.3%	\$13,137,477	19.6%	\$7,613,022	13.5%	\$7,453,276	14.3%	\$5,002,085	10.1%	\$5,366,332	10.7%	\$50,842,076	14.5%
Federal	\$12,741,069	17.0%	\$10,721,335	16.0%	\$8,124,763	14.4%	\$6,226,445	12.0%	\$7,168,236	14.4%	\$5,143,950	10.2%	\$50,125,798	14.3%
Local	\$8,802,762	11.7%	\$6,878,061	10.2%	\$6,352,999	11.2%	\$6,352,890	12.2%	\$5,752,890	11.6%	\$5,752,890	11.4%	\$39,892,492	11.4%
Subtotal	\$33,813,715	45.0%	\$30,736,873	45.8%	\$22,090,784	39.1%	\$20,032,611	38.4%	\$17,923,211	36.0%	\$16,263,172	32.3%	\$140,860,366	40.1%
Capital Grants & Assistance														
VA DRPT	\$9,455,655	12.6%	\$1,769,727	2.6%	\$3,778,146	6.7%	\$4,238,109	8.1%	\$6,150,235	12.4%	\$7,915,624	15.7%	\$33,307,496	9.5%
Federal	\$10,762,936	14.3%	\$12,796,829	19.1%	\$9,824,036	17.4%	\$6,689,765	12.8%	\$8,597,822	17.3%	\$11,080,201	22.0%	\$59,751,589	17.0%
Local	\$0	0.0%	\$0	0.0%	\$266,148	0.5%	\$3,143,319	6.0%	\$457,149	0.9%	\$699,375	1.4%	\$4,565,991	1.3%
Subtotal	\$20,218,591	26.9%	\$14,566,556	21.7%	\$13,868,330	24.6%	\$14,071,193	27.0%	\$15,205,206	30.6%	\$19,695,200	39.1%	\$97,625,076	27.8%
Interest Income	\$1,220,780	1.6%	\$1,929,594	2.9%	\$953,564	1.7%	\$881,973	1.7%	\$1,259,476	2.5%	\$1,417,195	2.8%	\$7,662,582	2.2%
Total Revenues	\$75,145,205	100%	\$67,128,976	100%	\$56,486,213	100%	\$52,103,662	100%	\$49,728,241	100%	\$50,335,577	100%	\$350,927,874	100%
Combined VA DRPT Revenues	\$21,725,539	28.9%	\$14,907,204	22.2%	\$11,391,168	20.2%	\$11,691,385	22.4%	\$11,152,320	22.4%	\$13,281,956	26.4%	\$84,149,572	24.0%

Figure 8 - 3 Annual Expenses for Virginia Railway Express (FY2002 to FY2007)
 (Source: VRE Annual Financial Statements)