

Rail Advisory Board Member Orientation Presentation

July 9, 2009

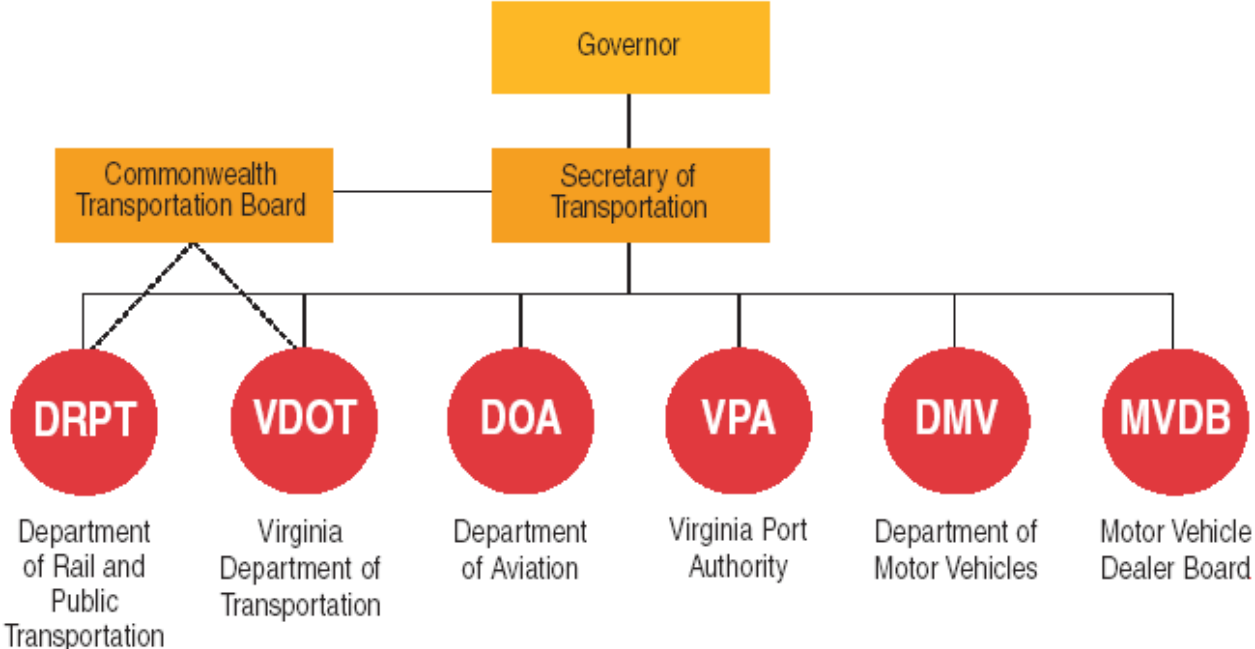
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Office of the Attorney General

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Who is DRPT?



- ❑ 40 employees, four offices
- ❑ Work with over 100 public and private partners to provide project management services, planning support, technical expertise, financial support and program advocacy

Relevant DRPT Powers and Duties (1)

- ❑ Except for powers conferred by law upon the CTB, DRPT's Director shall have the power to do all acts necessary or convenient for establishing, maintaining, improving and promoting passenger and freight rail transportation in the Commonwealth, and to procure architectural and engineering services for rail transportation projects.
- ❑ To accept grants from the US government and agencies and instrumentalities thereof and any other source.
- ❑ To assist other appropriate entities, public or private, in the implementation and improvement of passenger and freight rail services and the retention of rail corridors for public purposes.

Relevant DRPT Powers and Duties (2)

- ❑ To make and enter into all contracts and agreements necessary or incidental to the performance of its duties and the execution of its enumerated powers, including but not limited to contracts with the US government, other states, agencies and governmental subdivisions of VA, and other appropriate public and private entities.
- ❑ To represent and promote VA's interests in passenger and freight rail.
- ❑ To acquire by any means whatsoever, lease, improve and construct railway lines, passenger and freight rail and passenger and freight rail equipment determined to be for the common good of VA or a region of VA and to assist other appropriate entities in the implementation and improvement of passenger and freight rail services and the retention of rail corridors for public purposes.

Source: § 33.1-391.3 and § 33.1-391.4 of the *Code of Virginia* (1950), as amended.

DRPT's Management of the Rail Enhancement Fund

- § 33.1-221.1:1.1(C):
 - Director of DRPT shall administer and expend or commit, subject to the approval of the CTB, 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 CTB 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.
 - Prior to recommending an allocation to the CTB, the Director of DRPT shall consult with and obtain the advice and recommendations of the Rail Advisory Board established pursuant to § 33.1-391.3:1.

Rail Enhancement Fund Provisions

- ❑ Codified to provide annual funds for passenger and freight rail improvements
- ❑ Dedicated funding source is the **state** rental car tax
- ❑ Also includes funds from other sources as may be set forth in the appropriation act
- ❑ Requires at least a 30% match (including in-kind contributions) from a private source which may include a railroad, a regional authority, local government or combination
- ❑ Requires public benefit determination, which shall include, but not be limited to, the impact of the project on traffic congestion, environmental quality, and whenever possible give due consideration to passenger rail capacity on corridors identified by the CTB that have existing or proposed passenger rail service
- ❑ Refers to a Rail Advisory Board

Establishment of the Rail Advisory Board

- § 33.1-391.3:1:
 - Establishes the RAB, to consist of nine members appointed by the Governor for terms of four years. Vacancies shall be filled for the unexpired term in the same manner as the original appointment. One appointee shall be an at-large member of the CTB. The members shall elect a Chairman, and may, by majority vote, choose one of its members to serve as a vice-chairman.
 - The RAB shall, in consultation with the DRPT Director, develop recommendations to be presented to the CTB regarding allocations of funds from the REF.
 - The RAB shall also advise the Director and DRPT on other matters at the request of the Director or DRPT. The RAB shall meet at the call of the Chairman. A majority of members shall constitute a quorum for the conduct of all board businesses.
 - § 2.2-3112, concerning prohibited conduct concerning personal interest in a transaction, shall not apply

Other Provisions on Conflict of Interest

- § 2.2-3128 to § 2.2-3131:
 - **Each state agency shall offer at least semiannually to each of its state filers an orientation course** on the State and Local Government Conflicts of Interest Act, or ethics in public contracting pursuant to Article 6 of Chapter 43 of Title 2.2 of the *Code of Virginia*, if applicable to the filer, and on any other applicable regulations that govern the official conduct of state officers and employees.
 - **Each state agency shall maintain records** indicating the specific attendees, each attendee's job title and dates of their attendance for each orientation course offered for a period of not less than five years after each course is given. These records shall be public records subject to inspection and copying consistent with § 2.2-3704 of the Virginia FOIA.
 - Except as set forth in § 2.2-3131, **each state filer shall attend the orientation course as follows:**
 - State filer who held a position with the agency on Jan. 1, 2004, had to complete not later than Dec. 31, 2004. Thereafter, at least once during each consecutive period of two calendar years commencing on Jan. 1, 2006.
 - Persons who become a state filer with the agency after Jan. 1, 2004, must complete within two months after he/she becomes a state filer and at least once during each consecutive period of two calendar years commencing on the first odd-numbered year thereafter.

RAB Responsibilities

□ § 33.1-391.3:1:

- In consultation with, and with the assistance of the Director of DRPT, the RAB shall develop recommendations to be presented to the CTB regarding all proposed allocations of funds from the REF.
- The RAB shall work cooperatively with the Director of DRPT and with any affected railroad in identifying, developing and advocating projects and policies to enhance the quality and utility to the public of rail transportation in the Commonwealth.
- At the request of the Director of DRPT, the RAB shall consider and advise the Director and DRPT on any other matter or matters pertaining to transportation in the Commonwealth.
- Members of the RAB shall receive no compensation, but shall be reimbursed their actual and necessary expenses incurred in connection with their official duties. Staff support for the RAB shall be provided by DRPT.

REF Program Roles Defined

Commonwealth Transportation Board (CTB)

- ❑ Policy Board for DRPT
- ❑ Adopts Fund policy and procedures
- ❑ Must determine that projects result in public benefit
- ❑ Makes final decision on projects and allocates funds

Department of Rail and Public Transportation (DRPT)

- ❑ Executive Branch State Agency
- ❑ Works with RAB to finalize program policy, procedures, and propose projects for recommendation to the CTB
- ❑ Responsible for project administration, from project agreement to final inspection
- ❑ Responsible for Rail Enhancement Fund program monitoring and evaluation

Rail Advisory Board (RAB)

- ❑ Advisory Board to the Director of DRPT for the REF
- ❑ Nine members appointed by the Governor with terms of four years. One member is an at-large CTB member
- ❑ Works cooperatively with the Director of DRPT to develop recommendations on REF program policy, procedures, and REF projects for DRPT to advance to the CTB

Rail Enhancement Fund Program Funding Process

Annual Applications Period

December - February

DRPT Evaluates Applications and Develops the Draft Six-Year Improvement Plan (SYIP)

DRPT Presents Applications and Draft SYIP REF Projects to Rail Advisory Board

Rail Advisory Board Issues Recommendation to DRPT on Draft SYIP REF Projects to Advance to the Commonwealth Transportation Board

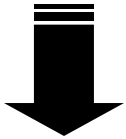
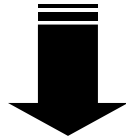
DRPT Presents the Draft SYIP to the Commonwealth Transportation Board

Commonwealth Transportation Board Approves the SYIP

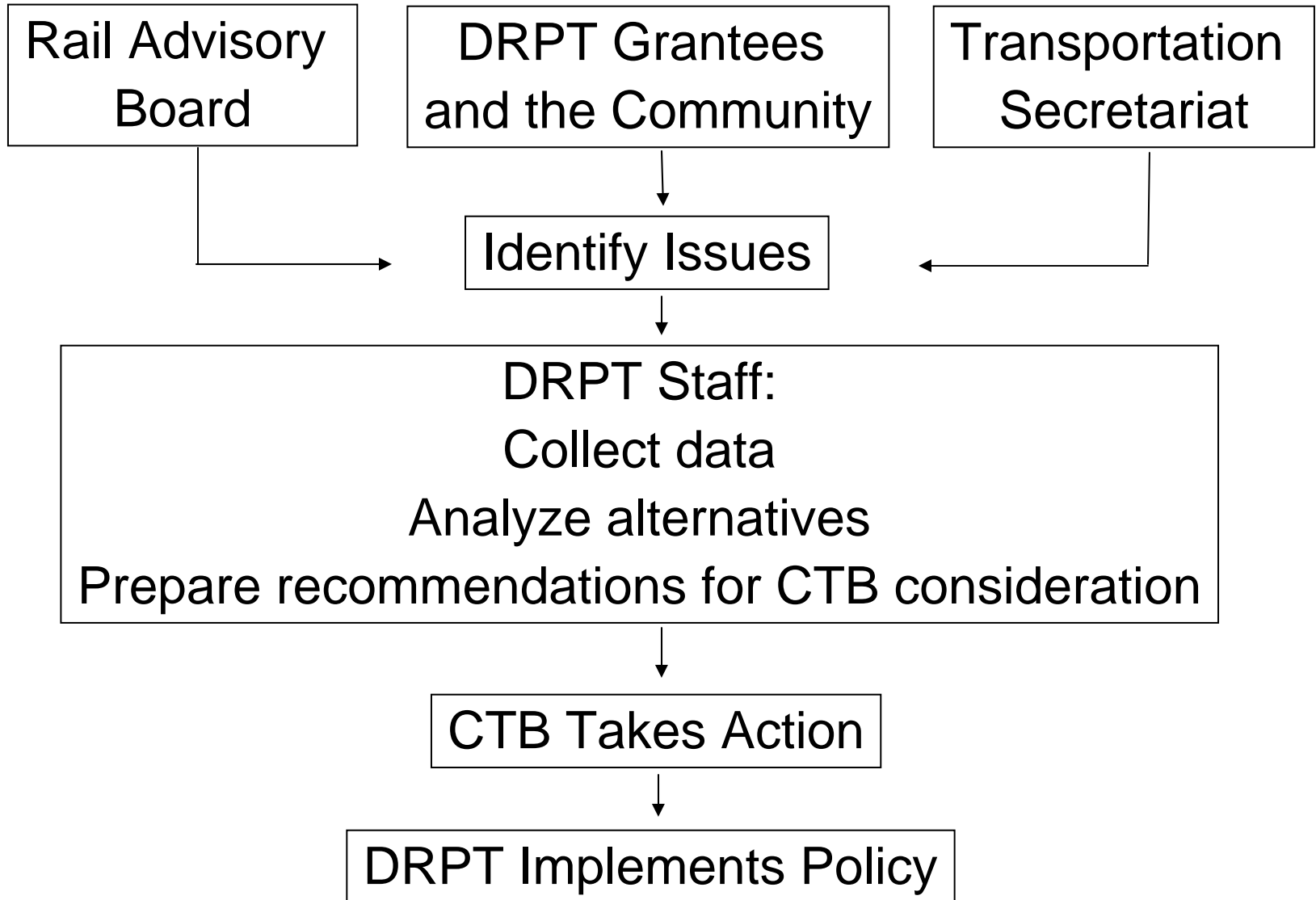
DRPT/Applicants Enter Project Agreements Defining Scope, Schedule and Budget

DRPT Monitors / Evaluates Individual Projects

DRPT Monitors / Evaluates Rail Enhancement Program



Rail Policy Development Process



The Legislative Process

- ❑ The executive branch legislative process is confidential, and DRPT may not comment on specific legislation under consideration
 - DRPT may speak in support of or against bills considered during the General Assembly session, in coordination with the Secretary of Transportation

- ❑ DRPT may not lobby for legislation
 - State employees are prohibited from lobbying during work hours or using state funds for lobbying

- ❑ RAB may issue recommendations encouraging legislative change to the DRPT Director
 - DRPT may speak to the facts of legislative issues but may not promise support
 - DRPT will forward RAB legislative recommendations to the Secretary of Transportation for consideration

RAB Member Information

- ❑ RAB members do not receive compensation, but may provide expense reports to DRPT for reimbursement of travel expenses related to RAB meetings
 - DRPT expense report forms are provided electronically or by paper copy to each member
 - Members should submit forms promptly to the Assistant to the DRPT Director after each meeting for processing and reimbursement
 - DRPT financial regulations require that expense reports be filed within 30 days of the date of expenses incurred

- ❑ DRPT will provide lunch for RAB members and speakers scheduled on the meeting agenda. Other meeting attendees should plan to provide their own meals.
 - The lunch break during RAB meetings will allow sufficient time for lunch before the meeting resumes unless the meeting is specified as a working lunch.

- ❑ RAB members are excluded from conflict of interest regulations set out in § 2.2-3112 in voting on projects to be funded in the REF program, but the remainder of the Conflicts of Interest Act remains applicable to the Board.
 - Each member may vote on any project under consideration



Virginia Department of Rail and Public Transportation

The Smartest Distance Between Two Points

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