

# VPRA Board Bylaws

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# VPRA Board Decision Brief

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## *Adoption of Virginia Passenger Rail Association Board Bylaws*

*October 26, 2020*

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**Item:** Section 33.2-292. Powers of the Authority enumerates powers of the Virginia Passenger Rail Authority (Authority), including power to “Make and adopt bylaws, rules, and regulations.”

**Context:** Certain activities, including the adoption of bylaws, are necessary as start-up activities for the Virginia Passenger Rail Authority (VPRA). The bylaws presented for Board consideration incorporate the powers enumerated and authorized by the 2020 General Assembly per Section 33.2-291 of the Code of Virginia.

Having bylaws in place will enable the Board to elect, appoint, and employ certain roles necessary to stand-up the authority. The bylaws call for election of a Vice-Chairperson, Secretary, and Treasurer. After adoption of the bylaws, the Board may elect the above positions, including the Treasurer position, to enable DRPT staff to initiate a banking relationship on behalf of the Authority

**Recommendation:** Staff recommends approval of the attached resolution for the proposed bylaws.

**Action Required by VPRA Board:** Approval of the attached resolution.

**Options:** Approve, Deny, or Defer.



## COMMONWEALTH of VIRGINIA

### *Virginia Passenger Rail Authority Board*

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Chairperson

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## **RESOLUTION OF THE VIRGINIA PASSENGER RAIL AUTHORITY BOARD**

**October 26, 2020**

### **MOTION**

**Made By: Seconded By: Action:**

**Title: Adoption of By-Laws**

**WHEREAS**, the 2020 General Assembly, through Virginia Code Section 33.2-288, established the Virginia Passenger Rail Authority ("Authority") to promote, sustain, and expand the availability of passenger and commuter rail service in the Commonwealth and to increase ridership of such service by connecting population centers with passenger and commuter rail service and increasing availability of such service; and

**WHEREAS**, Section 33.2-292(A)(1) of the Code of Virginia empowers the Authority to make and adopt bylaws, rules and regulations; and

**WHEREAS**, the adoption of bylaws by the Virginia Passenger Rail Authority Board ("Board") is necessary for the Board to take certain actions to commence the activities of the Authority in carrying out the Authority's statutory duties; and

**WHEREAS**, the Board has reviewed the proposed bylaws which have been reviewed and approved by the Virginia Office of the Attorney General for legal sufficiency.

**NOW THEREFORE, BE IT RESOLVED**, that the Board hereby approves and adopts the attached bylaws for its use.

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## **BYLAWS**

### **VIRGINIA PASSENGER RAIL AUTHORITY (Approved by the Board – October \_\_, 2020)**

#### **ARTICLE I**

##### **MISSION**

SECTION 1.1. Mission. It shall be the duty of the Virginia Rail Authority (the “Authority”), on behalf of the Commonwealth of Virginia (the “Commonwealth”), to sustain, improve, identify, encourage and promote an increase in passenger rail capacity, services and ridership to ameliorate current and future traffic congestion on Commonwealth highways and promote economic development of the Commonwealth through connecting population centers with passenger and commuter rail service and increasing availability of such service.

#### **ARTICLE II**

##### **OFFICES AND RECORDS**

SECTION 2.1. Virginia Office. The Authority shall, in the city of Richmond, have and maintain its principal office at which all of its records shall be kept, and from which its business shall be transacted.

SECTION 2.2. Other Offices. The Authority may, if necessary, establish a branch office or offices within the Commonwealth, in such locations as may be approved by the Board.

#### **ARTICLE III**

##### **BOARD AND OFFICERS**

SECTION 3.1. General Powers of the Board. All powers, rights and duties conferred by the Code of Virginia (the “Code”), or other provisions of law, upon the Authority shall be exercised by the Board. Without limiting the foregoing, the Board shall also have the exclusive power to hire and fire the Executive Director of the Authority.

SECTION 3.2. Board Makeup. The Board shall consist of those members as set forth in the Code.

SECTION 3.3. Officers. The Director of the Department of Rail and Public Transportation (the “Director”) shall serve as Chairperson of the Board. At each annual meeting of the Board, the Board shall elect from its membership a Vice-Chairperson and Secretary. The Board shall also annually elect a Treasurer who need not be a member of the Board. The Board may also appoint from the staff an Assistant Secretary and an Assistant Treasurer, who shall, in addition to other duties, discharge such functions of the Secretary and Treasurer, respectively, as may be directed by the Board. All officers of the

Board, as long as they continue to serve as members of the Board or staff members, shall hold office until removed by two-thirds vote of sitting members of the Board at a regularly scheduled board meeting of the Board or until their successors are elected or appointed and duly qualified.

3.3.1. Chairperson. The Chairperson, if present and able, shall preside at all meetings of the Board. The Chairperson shall execute any documents or legal instruments on behalf of the Board and shall perform such other duties as the Board may from time to time direct. The Chairperson shall see that the laws of the Commonwealth pertaining to the purposes and functions of the Authority are faithfully observed and executed.

3.3.2. Vice-Chairperson. In the absence or disability for any cause of the Chairperson of the Board, his or her duties shall be performed by the Vice-Chairperson, who shall act in the Chairperson's place and stead and shall, in addition, perform such other duties as are usually incumbent upon the Chairperson of the Board.

3.3.3. Acting Chairperson. In the event the offices of the Chairperson and Vice-Chairperson of the Board are both vacant, or in the event that the Chairperson and Vice-Chairperson of the Board are both unable to perform their duties by reason of illness, disability or absence, the Board shall appoint a Chairperson *pro tempore*, who shall preside at such meetings.

3.3.4. Secretary. The Secretary shall be the custodian of all records and the Seal of the Authority and shall keep accurate minutes of all committee and subcommittee meetings, and the meetings of the Board. He or she shall, when required, certify copies of records of the Authority and shall execute legal instruments and documents on behalf of the Board when ordered to do so and affix the Seal of the Authority to same, and shall perform such other duties as may be directed by the Board.

3.3.5. Treasurer. Except as otherwise provided herein or as required by law, the Treasurer shall be responsible for all monies of the Authority from whatever sources received and for all securities in the possession of the Authority and for the deposit of such monies in the name of the Authority in the banks, trust companies or special accounts approved by the Finance and Audit Committee, and he or she shall be responsible for all disbursements of such funds for the purposes for which intended or as authorized or directed by the Board. The Treasurer shall make periodic accountings for all such funds as determined by the Board, and the books and records shall be available for inspection by any member of the Board during business hours.

SECTION 3.4. Executive Director of the Authority. The Board shall employ the Executive Director of the Authority who shall not be a member of the Board and who shall serve at the pleasure of the Board. The Executive Director shall whenever possible be in attendance at all meetings of the Board and its committees. The Executive Director's compensation from the Commonwealth shall be fixed by the Board in accordance with the law. This compensation shall be established at a level which will enable the Authority to attract and retain a capable Executive Director.

3.4.1. Powers and Duties. The Executive Director shall execute any documents or legal instruments on behalf of the Authority and exercise such of the powers and duties relating to passenger

rail within the Commonwealth conferred upon the Board as may be delegated to him or her by the Board, including powers and duties involving the exercise of discretion. The Executive Director shall also exercise and perform such powers and duties as may be lawfully delegated to him or her, and such powers and duties as may be conferred or imposed upon him or her by law. Notwithstanding anything herein to the contrary, the Executive Director may not, without first obtaining the written consent of the Board, bind the Authority by entering into any contract, agreement or arrangement on the Authority's behalf in excess of \$2,500,000; provided, however, that the Executive Director may enter into a contract, agreement or arrangement on the Authority's behalf in excess of \$2,500,000 without the written consent of the Board if the Executive Director has obtained the prior written consent of the Chairperson of the Board and the Chairperson of the Finance and Audit Committee. If the Chairperson of the Board is not available to timely review any such contract, agreement or arrangement and give or withhold such consent, then he or she may designate another voting member of the Board to perform this duty on his or her behalf. If the Chairperson of the Finance and Audit Committee is not available to perform a timely review and give or withhold such consent, then he or she may designate another voting member of the Board who is on the Finance and Audit Committee to perform this duty on his or her behalf. Any such designation must be in writing (electronic mail is sufficient) sent to the Executive Director and legal counsel for the Authority. A designation shall be effective for thirty (30) days after it is given and shall be filed with books and records of the Authority kept pursuant to Section 3.11 below.

3.4.2. Senior Leadership Team. The Executive Director shall employ or retain such other agents or subordinate employees who report to the Executive Director as may be necessary. The duties and functions of such agents and employees shall be established by the Executive Director and approved by the Board.

SECTION 3.5. Passenger Rail Advisory Council. The Board may, at its discretion and from time to time, also form a Passenger Rail Advisory Council or other advisory committees, consisting of representatives from the railroad industry, to provide advice and counsel to the Board on all matters associated with the Authority with the exception of the annual budget and personnel matters.

SECTION 3.6. Regular and Annual Meetings of the Board. Regular meetings of the Board shall be held at least quarterly on a schedule that will be agreed upon by the Board. Written notice of each regular meeting specifying the time and place of the meeting together with an agenda setting forth the items proposed to come before the Board at that particular regular meeting shall be given to members by mail or otherwise at least three (3) business days in advance of the meeting, but any other matters may be considered at the meeting in the Chairperson's discretion. The annual meeting of the Board for the election of officers shall be held preceding the regular meeting of the Board in the month of July of each year. At any special or regularly scheduled meeting of the Board and in accordance with Virginia Code § 2.2-3712, the Board can go into closed session to consider items identified in Virginia Code § 2.2-3711 as appropriate for closed session.

SECTION 3.7. Special Meetings. Special meetings of the Board may be called at the request of any three (3) members of the Board. Written notice of each special meeting specifying the time and place of the meeting and the purpose or purposes for which called shall be given by mail or otherwise at least three (3) business days in advance of the meeting, but any matters may be considered by the meeting by

unanimous consent of those members present and if all members of the Board are present, whether or not specified in the notice.

SECTION 3.8. Time and Place of Meetings. The Chairperson will provide the members with notice of the time and place of regular and special board meetings. In accordance and in compliance with § 2.2-3708.2 of FOIA, the Authority may conduct meetings by electronic communications.

SECTION 3.9. Quorum. Seven members of the Board shall constitute a quorum for the transaction of all business. Action by the Board shall be by simple majority vote of the voting members of the Board present and voting.

SECTION 3.10. Committees of the Board. The Board may establish standing committees of the Board, which shall include a Finance and Audit Committee. There shall be such other committees and subcommittees as may be established by the Chairperson and approved by the Board. The chair of each standing committee shall be a voting member of the Board. Each committee and subcommittee shall consist of a Chairperson and vice-Chairperson and such other members as the Chairperson of the board shall appoint, but shall not consist of less than four (4) members. Each committee and subcommittee shall perform the duties set forth in these Bylaws or conferred upon them by the Board. Both the Chairperson of the Board and the Vice-Chairperson of the Board shall be an ex officio member of each committee and subcommittee. A quorum of any committee or subcommittee shall consist of a number equal to the majority of the appointed committee members, including those who serve as non-voting ex officio. Action by any committee or subcommittee shall be by simple majority vote of the members present and voting so long as a quorum is present. All substantive votes taken by any committee shall be reported to the Board for final action and recordation in the minutes of the Authority at the next regular meeting of the Board following such committee action.

3.10.1. Finance and Audit Committee. The Finance and Audit Committee shall consider and make recommendations on all questions relating to the financial affairs of the Authority, including but not limited to all revenues and operating expenses of the Authority, the financing of any capital improvements, the financing and administration of the Authority's retirement plans, and any other matters dealing with finance which the Board may from time to time refer to it. The Finance and Audit Committee shall approve all depositories used by the Authority. The Finance and Audit Committee shall also provide advice, information and recommendations to the Board on the Authority's financial reporting process, system of internal controls, audit process and the Authority's process for monitoring compliance with laws and regulations and the Authority's policies.

SECTION 3.11. Records. The Board shall cause to be kept a record containing the minutes of the proceedings of the meetings of the Board and such books and records and accounts as may be necessary for the proper conduct of the business of the Authority.

## **ARTICLE IV**

### **MISCELLANEOUS PROVISIONS**

SECTION 4.1. Fiscal Year. The fiscal year of the Authority shall begin on the first day of July and end on the thirtieth day of June of each year.

SECTION 4.2. Waiver of Notice. Whenever any notice is required to be given under the provisions of the Code or these Bylaws, a waiver thereof in writing, signed by the person or persons entitled to such notice, whether before or after the time stated therein, shall be deemed equivalent to the giving of such notice. Neither the business to be transacted at, nor the purpose of, any annual, regular or special meeting of the Board or committee thereof need be specified in any waiver of notice of such meeting. A board members' attendance at or participation in a meeting waives any required notice to him or her of the meeting unless at the beginning of the meeting or promptly upon such member's arrival, the member objects to holding the meeting or transacting business at the meeting and does not thereafter vote for or assent to action taken at the meeting.

SECTION 4.3. Amendment. These Bylaws may be amended by resolution duly adopted by the Board at any regular or special meeting providing that notice of the intention to present such resolution shall be given at least three (3) business days in advance of the meeting at which the motion to adopt such resolution is to be made. Such notice may be given by any member of the Board or any committee of the Board or by the Secretary at the request of any member of the Board or any committee of the Board and shall be given in writing, mailed or delivered, to all members of the Board. The notice of intention to amend these Bylaws shall include the language of the suggested change together with a reference to the Article subject to the proposed amendment.

SECTION 4.4. Inconsistency. In the event of inconsistency between these Bylaws and any provision of the Code, the Code will govern.