

Department of Planning and Budget 2015 Fiscal Impact Statement

1. **Bill Number:** SB1435

House of Origin Introduced Substitute Engrossed
Second House In Committee Substitute Enrolled

2. **Patron:** Deeds

3. **Committee:** Passed both houses

4. **Title:** Eminent domain; lost profits and just compensation

5. **Summary:** Requires that any and all liability for lost profits claimed in an action for compensation pursuant to a taking under eminent domain be set forth specifically in the award for just compensation and that in a partial acquisition, in the event that the owner of the property being condemned and the owner of the business or farm operation claiming lost profits are the same, then any enhancement shall be offset against both damage to the residue and lost profits. The bill also defines lost profits as a loss of business profits for a period not to exceed three years from the date of valuation if there is a partial taking and for a period not to exceed one year from the date of valuation if the entire parcel of property is taken.

6. **Budget Amendment Necessary:** No

7. **Fiscal Impact Estimates:** Final. See Item 8.

8. **Fiscal Implications:** The modifications provided in this legislation could impact property acquisition costs for the Virginia Department of Transportation (VDOT) associated with road construction/improvement projects. Looking at previous years' data, VDOT estimates that the potential for additional payment for lost profits on total acquisition projects could average \$585,000 per year. Higher property acquisition costs will lower the total number of projects VDOT can implement given the finite amount of transportation revenues.

The provision to allow enhancements to offset lost profits if the ownership of the business and condemned property is the same is likely to have little fiscal impact. According to VDOT, it is rare for enhancements to the residue to occur and more rare to have the same ownership for a business and for the property.

9. **Specific Agency or Political Subdivisions Affected:** VDOT and all other state and local entities with eminent domain authority.

10. **Technical Amendment Necessary:** No

11. **Other Comments:** None