

***ITEM FOR CONSIDERATION***  
***IN PREPARATION OF THE FAIRFAX COUNTY LEGISLATIVE PROGRAM***  
***2023 VIRGINIA GENERAL ASSEMBLY***  
***September 20, 2022***  
***INDEX***

**ITEM FOR INITIAL CONSIDERATION**

Environment – Electric Vehicles and Infrastructure

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## ENVIRONMENT – ELECTRIC VEHICLES AND INFRASTRUCTURE

### PROPOSAL:

**Proposal A:** Provide state monetary incentives for electric vehicles (EVs), including free use of toll lanes and reduced registration fees.

**Proposal B:** Provide EV charging stations in multifamily buildings and businesses.

### SOURCE:

Environmental Quality Advisory Council (EQAC)  
August 5, 2022

### BACKGROUND:

Fairfax County has long been committed to environmental sustainability and addressing the impacts of global climate change, including conserving limited natural resources and protecting the environment. In the Carbon Neutral Counties Declaration (adopted in July 2021), Fairfax County commits to being carbon neutral by 2040, and urges federal and state lawmakers to provide incentives, requirements, or other measures to meet carbon neutrality goals, specifically targeting the building and energy, transportation, and solid waste sectors. Transportation is a notable source of CO<sub>2</sub> emissions, and as a result, the benefits of EVs in the effort to combat climate change are increasingly and widely recognized. According to the US Department of Energy, EVs can “reduce the emissions that contribute to climate change and smog, improving public health and reducing ecological damage.” The vehicles themselves produce zero emissions, and their increased adoption could help improve air quality for both the County and the Commonwealth. Reducing pollution not only promotes sustainable mobility, it also provides local and regional health benefits. Initiatives to assist residents and the County in transitioning to EVs will help reduce both direct emissions (those emitted from the vehicle tailpipe) and life cycle emissions (those related to fuel and vehicle production, processing, distribution, use, and recycling/disposal).

### *Recent General Assembly Actions*

In recent years, the General Assembly (GA) has taken several actions in support of EVs and EV infrastructure. The 2021 GA expanded EV infrastructure and EV adoption in a variety of ways.

- **SB 1223** (Boysko) amended the Virginia Energy Plan to include an analysis of EV charging infrastructure and other infrastructure needed to support the state target of reaching net-zero for carbon by 2045 in the transportation sector.
- **HB 2282** (Sullivan) directed the State Corporation Commission (SCC) to develop a report recommending policy proposals for public electric utility programs to

accelerate widespread transportation electrification. This report was released in April 2022, and provided six policy proposals for consideration, including requiring that regulated electric utilities submit transportation electrification plans to the Commission on a regular basis (including transportation electrification forecasts, potential impacts, and planned utility offerings); requiring regulated electric utilities to regularly file anonymized transportation electrification data for stakeholders to provide transparency and encourage innovation; pursuing federal funding to support transportation electrification; and, recommending that the GA give the Commission the authority it needs to make sure that as transportation electrifies, regulated electric rates accurately reflect total costs and total sales.

- **HB 1965** (Bagby) directed the State Air Pollution Control Board to implement a low-emissions and zero-emissions vehicle program, making Virginia the first state in the South to direct automakers to provide the state higher inventories of cleaner, fuel-efficient vehicles and EVs.
- **HB 1979** (Reid) established the Virginia Electric Vehicle Rebate, which provides a \$2,500 rebate for the purchase or lease of new or used EVs. Under the program, purchasers or lessees with an annual household income up to 300 percent of the federal poverty level would be entitled to an additional \$2,000 rebate. The legislation went into effect on October 1, 2021, and will expire on January 1, 2027. Though the House included \$5 million in their proposed 2021 budget to fund the program, the funding was not included in the final budget adopted by the GA that year. The 2022 GA also did not provide funding for this program. Language in support of funding to implement this program, as well as flexibility to determine rebate eligibility in high cost-of-living areas like Northern Virginia, was included in the 2022 Legislative Program. **Proposal A is aimed at addressing the lack of funding for this program, in addition to providing other incentives for EVs.**

Results on the EV front for the 2022 GA were somewhat mixed. The 2022 GA passed legislation (**HB 443** (Bulova), a County initiative), which gave park authorities created by a locality the authority to locate, operate, regulate the use of, and install signage relating to EV charging stations on property under their jurisdiction. The GA also enacted **HB 450** (Bennett-Parker), which prohibits a person from parking a vehicle not capable of receiving an electric charge, or not in the process of charging, in a space clearly marked as reserved for charging EVs. However, the GA also considered several other bills that would have aided in the transition to EVs, but those bills were unsuccessful. **SB 488** (McClellan) would have established the Transit Transition Fund and Program to provide grants to state, regional, and local public entities to support the transition of public transit fleets to zero-emission fleets. **HB 351** (Sullivan) and **SB 708** (Marsden) would have established a driving decarbonization program and fund to assist developers with non-utility costs associated with the installation of EV charging stations.

There are several high-occupancy vehicle (HOV) and high-occupancy toll (HOT) lane facilities in Northern Virginia. Depending on the facility, vehicles carrying a certain number of passengers have access to the lanes and may be able to use them free of charge – for instance, vehicles with three or more passengers can use the I-495 Express Lanes free

of charge by utilizing an E-ZPass Flex. Otherwise, vehicles may not have access to the lanes or must pay the applicable toll. Though incentives that encourage the use of EVs can be a helpful tool in reducing emissions, granting EVs the ability to travel in the HOT lanes free of charge would likely have implications (including potential conflicts) for the contracts and public-private partnership agreements in place on the Express Lanes, as additional cars traveling for free could trigger financial penalties for the Commonwealth.

Owners of all vehicles registered for highway use in Virginia must pay a registration fee, which currently ranges from \$30.75 to \$35.75 for a passenger vehicle (\$35.75 to \$44.75 for a pickup truck). Registration fees for most passenger vehicles were reduced by \$10 as part of the 2020 Omnibus Transportation bill – **HB 1414** (Filler-Corn)/**SB 890** (Saslaw). Approximately sixty percent of vehicle registration fees are deposited into the Commonwealth Transportation Fund (CTF), with smaller portions allocated to the Motor Vehicles Special Fund (Department of Motor Vehicles), the State Vehicle Safety Inspection Fund (Virginia State Police), Emergency Medical Services Fee (Virginia Department of Health (VDH)), and Rescue Assistance Fund (VDH). **HB 1414/SB 890** also implemented a highway use fee for alternative fuel, electric motor, and fuel-efficient vehicles, which was designed to ensure that drivers of fuel-efficient and electric vehicles make fair contributions to the CTF. This fee is based on 85 percent of the difference between the fuel tax paid by the average vehicle (23.7 miles per gallon) and the fuel tax paid by the fuel-efficient vehicle. Revenues collected from this fee are also deposited into the CTF, which supports the Commonwealth's transportation system, such as Highway Maintenance and Operations, Roadway Construction, and Mass Transit, Capital and Operating Assistance. It is unclear if Proposal A is meant to include a reduction of this fee for EVs. However, as the need for the state to provide sufficient transportation funding continues, it is critical to protect existing funding sources.

Additionally, the 2020 GA approved legislation related to the installation of EV charging stations and common interest communities. Restrictive covenants related to common interest communities frequently receive substantial discussion at the GA, as competing interests struggle to navigate these contractual relationships that were often crafted without anticipating newly emerging technologies or other aspects of modern life. This has been especially true as the GA has sought to update the law to account for a wave of green energy initiatives. **SB 630** (Surovell) prohibits certain common interest community associations from restricting residents from installing EV charging stations unless explicitly addressed in the declaration or other recorded governing documents. The legislation sets requirements regarding the installation or removal of the charging stations on a member's property, or a shared lot owned by the association. The legislation also requires the association member installing an EV charging station to indemnify and hold the association harmless from all liability resulting from a claim arising out of the installation, maintenance, operation, or use of such charging station. **SB 630** does include some safeguards, allowing common interest communities to prohibit the installation of an EV charging station when it is not practicable due to safety risks,

structural issues, or certain engineering conditions. The balanced approach included in the final legislation is likely why it was successful at the GA. **Proposal B seems to be aimed at taking this issue much further by ensuring that EV charging stations are provided in multifamily buildings and businesses.** It is unclear what mechanism proposal B might utilize to implement such a change, but it would be important to consider all potential consequences of such a proposal and balance the need for resource conservation and climate policy with realistic implementation and financial solutions.

Further, expanding access to EV charging stations in multifamily buildings and businesses may be better handled through implementation of existing legislative authority, rather than by pursuing additional legislation at this time. Actions to increase EV adoption are included in Strategy 7 of the County's Community-wide Energy and Climate Action Plan (CECAP). As part of CECAP implementation, the County's Office of Environmental and Energy Coordination (OEEC) has developed a program, Charge Up Fairfax, which aims to facilitate installation of EV charging stations in common interest communities, particularly in communities where lot owners do not have access to a garage and may not own the parking spaces. The Board of Supervisors will receive a presentation on this new program at the Transportation Committee meeting on September 30.

#### RECOMMENDATION:

**Proposal A:** Provide state monetary incentives for EVs, including free use of toll lanes and reduced registration fees.

**Recommendation:** Staff will continue to advocate at the GA based on the existing language in the Legislative Program in support of funding to implement the rebate program, as well as flexibility to determine rebate eligibility in high cost-of-living areas like Northern Virginia. Additionally, direct staff to monitor for specific budget actions or legislation in 2023, in order to bring related items to Legislative Committee for consideration by the Board of Supervisors.

**Proposal B:** Provide EV charging stations in multifamily buildings and businesses.

**Recommendation:** As part of CECAP implementation, OEEC has developed a program, Charge Up Fairfax, which aims to facilitate installation of EV charging stations in common interest communities, particularly in communities where lot owners do not have access to a garage and may not own the parking spaces. The Board of Supervisors will receive a presentation on this new program at the Board's Transportation Committee meeting on September 30. Charge Up Fairfax is designed to utilize the County's existing authority – based on the Board's feedback. If it is discovered that additional legislative authority could make that program more effective, legislation can be considered for future GA sessions.

Additionally, direct staff to monitor for introduction of specific legislation related to these issues in 2023, in order to bring related bill to Legislative Committee for consideration by the Board of Supervisors.