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SENATE BILL NO. 851

Offered January 10, 2001

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A BILL to amend and reenact §§ 28.2-108 and 58.1-638 of the Code of Virginia, relating to the Marine Patrols Fund; portions of sales and use tax revenues.

Patron—Wagner

Referred to Committee on Finance

Be it enacted by the General Assembly of Virginia:**1. That §§ 28.2-108 and 58.1-638 of the Code of Virginia are amended and reenacted as follows:**

§ 28.2-108. Marine Patrols Fund continued.

A. The Marine Patrols Fund is continued *as a special nonreverting fund* and hereinafter referred to as the Fund, which shall consist of *allocations made under the provisions of § 58.1-638 E* and moneys appropriated to it by the General Assembly. The Comptroller shall annually distribute moneys from the Fund for the following purposes:

1. *To support the duties of the Virginia Marine Patrol as provided in § 28.2-106 A.*

2. To cover the Commission's costs for its operation of a marine patrol dispatch service.

23. To reimburse each county or city in Tidewater Virginia or any county abutting Smith Mountain Lake for its operation of a marine patrol or for providing marine patrol services in waters under the jurisdiction of the Commonwealth. The amount to be paid to each county or city shall be as specifically provided for in the General Appropriations Act. The Comptroller, upon certification by the Commissioner, shall make such payments no later than February 1. The total amount provided to any county or city shall not exceed twenty dollars per motorboat registered in the locality on January 1 of that year, as determined by the records of the Board of Game and Inland Fisheries.

B. If total distributions allowable under subsection A of this section exceed the amount of revenues ~~specifically appropriated for counties and cities~~ *appropriated to the Fund*, each qualifying county or city shall receive a prorated share.

C. The Commissioner may obtain from any county or city seeking funds under this section any information he needs to determine the amount of funds to which such county or city may be entitled.

D. For the purposes of this section, the terms "marine patrol" and "marine patrol services" mean water-borne law-enforcement, safety, and rescue activities.

§ 58.1-638. Disposition of state sales and use tax revenue; Transportation Trust Fund; localities' share; Game Protection Fund; Marine Patrol Fund.

A. The Comptroller shall designate a specific revenue code number for all the state sales and use tax revenue collected under the preceding sections of this chapter.

1. The sales and use tax revenue generated by the one-half percent sales and use tax increase enacted by the 1986 Special Session of the General Assembly shall be paid, in the manner hereinafter provided in this section, to the Transportation Trust Fund as defined in § 33.1-23.03:1. Of the funds paid to the Transportation Trust Fund, an aggregate of 4.2 percent shall be set aside as the Commonwealth Port Fund as provided in this section; an aggregate of 2.4 percent shall be set aside as the Commonwealth Airport Fund as provided in this section; and an aggregate of 14.5 percent in fiscal year 1998-1999 and 14.7 percent in fiscal year 1999-2000 and thereafter shall be set aside as the Commonwealth Mass Transit Fund as provided in this section. The Fund's share of such net revenue shall be computed as an estimate of the net revenue to be received into the state treasury each month, and such estimated payment shall be adjusted for the actual net revenue received in the preceding month. All payments shall be made to the Fund on the last day of each month.

2. There is hereby created in the Department of the Treasury a special nonreverting fund which shall be a part of the Transportation Trust Fund and which shall be known as the Commonwealth Port Fund.

a. The Commonwealth Port Fund shall be established on the books of the Comptroller and the funds remaining in such Fund at the end of a biennium shall not revert to the general fund but shall remain in the Fund. Interest earned on such funds shall remain in the Fund and be credited to it. Funds may be paid to any authority, locality or commission for the purposes hereinafter specified.

b. The amounts allocated pursuant to this section shall be allocated by the Commonwealth Transportation Board to the Board of Commissioners of the Virginia Port Authority to be used to support port capital needs and the preservation of existing capital needs of all ocean, river, or tributary ports within the Commonwealth.

c. Commonwealth Port Fund revenue shall be allocated by the Board of Commissioners to the

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59 Virginia Port Authority in order to foster and stimulate the flow of maritime commerce through the
60 ports of Virginia, including but not limited to the ports of Richmond, Hopewell and Alexandria.

61 3. There is hereby created in the Department of the Treasury a special nonreverting fund which shall
62 be part of the Transportation Trust Fund and which shall be known as the Commonwealth Airport Fund.
63 The Commonwealth Airport Fund shall be established on the books of the Comptroller and any funds
64 remaining in such Fund at the end of a biennium shall not revert to the general fund but shall remain in
65 the Fund. Interest earned on the funds shall be credited to the Fund. The funds so allocated shall be
66 allocated by the Commonwealth Transportation Board to the Virginia Aviation Board. The funds shall
67 be allocated by the Virginia Aviation Board to any Virginia airport which is owned by the
68 Commonwealth, a governmental subdivision thereof, or a private entity to which the public has access
69 for the purposes enumerated in § 5.1-2.16, or is owned or leased by the Metropolitan Washington
70 Airports Authority (MWAA), as follows:

71 Any new funds in excess of \$12.1 million which are available for allocation by the Virginia Aviation
72 Board from the Commonwealth Transportation Fund, shall be allocated as follows: sixty percent to
73 MWAA, up to a maximum annual amount of two million dollars, and forty percent to air carrier airports
74 as provided in subdivision A 3 a. Except for adjustments due to changes in enplaned passengers, no air
75 carrier airport sponsor, excluding MWAA, shall receive less funds identified under subdivision A 3 a
76 than it received in fiscal year 1994-1995.

77 Of the remaining amount:

78 a. Forty percent of the funds shall be allocated to air carrier airports, except airports owned or leased
79 by MWAA, based upon the percentage of enplanements for each airport to total enplanements at all air
80 carrier airports, except airports owned or leased by MWAA. No air carrier airport sponsor, however,
81 shall receive less than \$50,000 nor more than \$2 million per year from this provision.

82 b. Forty percent of the funds shall be allocated by the Aviation Board for air carrier and reliever
83 airports on a discretionary basis, except airports owned or leased by MWAA.

84 c. Twenty percent of the funds shall be allocated by the Aviation Board for general aviation airports
85 on a discretionary basis.

86 4. There is hereby created in the Department of the Treasury a special nonreverting fund which shall
87 be a part of the Transportation Trust Fund and which shall be known as the Commonwealth Mass
88 Transit Fund.

89 a. The Commonwealth Mass Transit Fund shall be established on the books of the Comptroller and
90 any funds remaining in such Fund at the end of the biennium shall not revert to the general fund but
91 shall remain in the Fund. Interest earned on such funds shall be credited to the Fund. Funds may be
92 paid to any local governing body, transportation district commission, or public service corporation for
93 the purposes hereinafter specified.

94 b. The amounts allocated pursuant to this section may be used to support a maximum of fifty percent
95 of the public transportation administrative costs and up to eighty percent of the costs of ridesharing
96 programs borne by the locality. These amounts may be used to support up to ninety-five percent of the
97 local or nonfederal share of capital project costs for public transportation and ridesharing equipment,
98 facilities, and associated costs. Capital costs may include debt service payments on local or agency
99 transit bonds. Further, these amounts may be used to support a maximum of ninety-five percent of the
100 costs borne by the locality for the purchase of fuels, lubricants, tires and maintenance parts and supplies
101 for public transportation. The term "borne by the locality" means the local share eligible for state
102 assistance consisting of costs in excess of the sum of fares and other operating revenues plus federal
103 assistance received by the locality.

104 c. Commonwealth Mass Transit Fund revenue shall be allocated by the Commonwealth
105 Transportation Board as follows:

106 (1) Funds for special programs, which shall include ridesharing, experimental transit, and technical
107 assistance, shall not exceed 1.5 percent of the Fund.

108 (2) The Board may allocate these funds to any locality or planning district commission to finance up
109 to eighty percent of the local share of all costs associated with the development, implementation, and
110 continuation of ridesharing programs.

111 (3) Funds allocated for experimental transit projects may be paid to any local governing body,
112 transportation district commission, or public corporation or may be used directly by the Department of
113 Rail and Public Transportation for the following purposes:

114 (a) To finance up to ninety-five percent of the capital costs related to the development,
115 implementation and promotion of experimental public transportation and ridesharing projects approved
116 by the Board.

117 (b) To finance up to ninety-five percent of the operating costs of experimental mass transportation
118 and ridesharing projects approved by the Board for a period of time not to exceed twelve months.

119 (c) To finance up to ninety-five percent of the cost of the development and implementation of any
120 other project designated by the Board where the purpose of such project is to enhance the provision and

121 use of public transportation services.

122 d. Funds allocated for public transportation promotion and operation studies may be paid to any local
123 governing body, planning district commission, transportation district commission, or public transit
124 corporation, or may be used directly by the Department of Rail and Public Transportation for the
125 following purposes and aid of public transportation services:

126 (1) At the approval of the Board to finance a program administered by the Department of Rail and
127 Public Transportation designed to promote the use of public transportation and ridesharing throughout
128 Virginia.

129 (2) To finance up to fifty percent of the local share of public transportation operations planning and
130 technical study projects approved by the Board.

131 e. At least 73.5 percent of the Fund shall be distributed to each transit property in the same
132 proportion as its operating expenses bear to the total statewide operating expenses and shall be spent for
133 the purposes specified in subdivision 4 b.

134 f. The remaining twenty-five percent shall be distributed for capital purposes on the basis of
135 ninety-five percent of the nonfederal share for federal projects and ninety-five percent of the total costs
136 for nonfederal projects. In the event that total capital funds available under this subdivision are
137 insufficient to fund the complete list of eligible projects, the funds shall be distributed to each transit
138 property in the same proportion that such capital expenditure bears to the statewide total of capital
139 projects.

140 g. There is hereby created in the Department of the Treasury a special nonreverting fund known as
141 the Commonwealth Transit Capital Fund. The Commonwealth Transit Capital Fund shall be part of the
142 Commonwealth Mass Transit Fund. The Commonwealth Transit Capital Fund subaccount shall be
143 established on the books of the Comptroller and consist of such moneys as are appropriated to it by the
144 General Assembly and of all donations, gifts, bequests, grants, endowments, and other moneys given,
145 bequeathed, granted, or otherwise made available to the Commonwealth Transit Capital Fund. Any funds
146 remaining in the Commonwealth Transit Capital Fund at the end of the biennium shall not revert to the
147 general fund, but shall remain in the Commonwealth Transit Capital Fund. Interest earned on funds
148 within the Commonwealth Transit Capital Fund shall remain in and be credited to the Commonwealth
149 Transit Capital Fund. Proceeds of the Commonwealth Transit Capital Fund may be paid to any political
150 subdivision, another public entity created by an act of the General Assembly, or a private entity as
151 defined in § 56-557 and for purposes as enumerated in subdivision 4c of § 33.1-269 or expended by the
152 Department of Rail and Public Transportation for the purposes specified in this subdivision. Revenues of
153 the Commonwealth Transit Capital Fund shall be used to support capital expenditures involving the
154 establishment, improvement, or expansion of public transportation services through specific projects
155 approved by the Commonwealth Transportation Board. Projects financed by the Commonwealth Transit
156 Capital Fund shall receive local, regional or private funding for at least twenty percent of the nonfederal
157 share of the total project cost.

158 5. Funds for Metro shall be paid by the Northern Virginia Transportation Commission (NVTC) to the
159 Washington Metropolitan Area Transit Authority (WMATA) and be a credit to the Counties of
160 Arlington and Fairfax and the Cities of Alexandria, Falls Church and Fairfax in the following manner:

161 a. Local obligations for debt service for WMATA rail transit bonds apportioned to each locality
162 using WMATA's capital formula shall be paid first by NVTC. NVTC shall use ninety-five percent state
163 aid for these payments.

164 b. The remaining funds shall be apportioned to reflect WMATA's allocation formulas by using the
165 related WMATA-allocated subsidies and relative shares of local transit subsidies. Capital costs shall
166 include twenty percent of annual local bus capital expenses. Hold harmless protections and obligations
167 for NVTC's jurisdictions agreed to by NVTC on November 5, 1998, shall remain in effect.

168 Appropriations from the Commonwealth Mass Transit Fund are intended to provide a stable and
169 reliable source of revenue as defined by Public Law 96-184.

170 B. The sales and use tax revenue generated by a one percent sales and use tax shall be distributed
171 among the counties and cities of this Commonwealth in the manner provided in subsections C and D.

172 C. The localities' share of the net revenue distributable under this section among the counties and
173 cities shall be apportioned by the Comptroller and distributed among them by warrants of the
174 Comptroller drawn on the Treasurer of Virginia as soon as practicable after the close of each month
175 during which the net revenue was received into the state treasury. The distribution of the localities' share
176 of such net revenue shall be computed with respect to the net revenue received into the state treasury
177 during each month, and such distribution shall be made as soon as practicable after the close of each
178 such month.

179 D. The net revenue so distributable among the counties and cities shall be apportioned and
180 distributed upon the basis as certified to the Comptroller by the Department of Education, of the number
181 of children in each county and city according to the most recent statewide census of school population

182 taken by the Department of Education pursuant to § 22.1-284, as adjusted in the manner hereinafter
183 provided. No special school population census, other than a statewide census, shall be used as the basis
184 of apportionment and distribution except that in any calendar year in which a statewide census is not
185 reported, the Department of Education shall adjust such school population figures by the same percent of
186 annual change in total population estimated for each locality by The Center for Public Service. The
187 revenue so apportionable and distributable is hereby appropriated to the several counties and cities for
188 maintenance, operation, capital outlays, debt and interest payments, or other expenses incurred in the
189 operation of the public schools, which shall be considered as funds raised from local resources. In any
190 county, however, wherein is situated any incorporated town constituting a school division, the county
191 treasurer shall pay into the town treasury for maintenance, operation, capital outlays, debt and interest
192 payments, or other expenses incurred in the operation of the public schools, the proper proportionate
193 amount received by him in the ratio that the school population of such town bears to the school
194 population of the entire county. If the school population of any city or of any town constituting a school
195 division is increased by the annexation of territory since the last preceding school population census,
196 such increase shall, for the purposes of this section, be added to the school population of such city or
197 town as shown by the last such census and a proper reduction made in the school population of the
198 county or counties from which the annexed territory was acquired.

199 E. 1. Beginning July 1, 2000, of the remaining sales and use tax revenue, the revenue generated by a
200 two percent sales and use tax, up to an annual amount of \$13 million, collected from the sales of
201 hunting equipment, auxiliary hunting equipment, fishing equipment, auxiliary fishing equipment,
202 wildlife-watching equipment, and auxiliary wildlife-watching equipment in Virginia, as estimated by the
203 most recent U.S. Department of the Interior, Fish and Wildlife Service and U.S. Department of
204 Commerce, Bureau of the Census National Survey of Fishing, Hunting, and Wildlife-Associated
205 Recreation, shall be paid, *except as otherwise provided in subdivision 2 of this subsection*, into the
206 Game Protection Fund established under § 29.1-101 and shall be used, in part, to defray the cost of law
207 enforcement. Not later than thirty days after the close of each quarter, the Comptroller shall transfer to
208 the Game Protection Fund the appropriate amount of collections to be dedicated to such Fund. At any
209 time that the balance in the Capital Improvement Fund, established under § 29.1-101.1, is equal to or in
210 excess of \$35 million, any portion of sales and use tax revenues that would have been transferred to the
211 Game Protection Fund, established under § 29.1-101, in excess of the net operating expenses of the
212 Board, after deduction of other amounts which accrue to the Board and are set aside for the Game
213 Protection Fund, shall remain in the general fund until such time as the balance in the Capital
214 Improvement Fund is less than \$35 million.

215 2. *That portion of the amount attributable to the sale of fishing equipment and auxiliary fishing*
216 *equipment for salt water use, which would otherwise be deposited into the Game Protection Fund*
217 *pursuant to subdivision 1 of this subsection, shall be deposited into the Marine Patrols Fund,*
218 *established under § 28.2-108, for the purpose of supporting the duties of the Virginia Marine Patrol as*
219 *provided in § 28.2-106 A. The amount shall be determined by taking a ratio, the numerator of which*
220 *equals the number of salt water fishing days for the immediately preceding year and the denominator of*
221 *which equals the number of salt water and fresh water fishing days for the same year, and multiplying*
222 *it by the total amount of the two percent sales and use tax collected in the state, in accordance with this*
223 *subsection, on all fishing and auxiliary fishing equipment for that year. The number of salt water and*
224 *fresh water fishing days shall be as reported by the Bureau of the Census National Survey of Fishing,*
225 *Hunting, and Wildlife-Associated Recreation. The Comptroller shall transfer to the Marine Patrols Fund*
226 *the appropriate amount of collections to be dedicated to such Fund at the same time the appropriate*
227 *amount of collections are transferred to the Game Protection Fund, pursuant to subdivision 1 of this*
228 *subsection.*

229 F. If errors are made in any distribution, or adjustments are otherwise necessary, the errors shall be
230 corrected and adjustments made in the distribution for the next quarter or for subsequent quarters.

231 G. The term "net revenue," as used in this section, means the gross revenue received into the general
232 fund or the Transportation Trust Fund of the state treasury under the preceding sections of this chapter,
233 less refunds to taxpayers.