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## HOUSE BILL NO. 1399

Offered January 23, 2004

*A BILL to amend and reenact §§ 58.1-540, 58.1-548 and 58.1-609.1 of the Code of Virginia and to repeal § 58.1-611.1 of the Code of Virginia, relating to local income tax and sales tax.*

Patron—Ebbin

Referred to Committee on Finance

**Be it enacted by the General Assembly of Virginia:**

**1. That §§ 58.1-540, 58.1-548 and 58.1-609.1 of the Code of Virginia are amended and reenacted as follows:**

§ 58.1-540. Levy of the tax.

A. ~~Any~~ Every county having a population of more than 500,000, as determined by the 1980 U.S. Census, any county or city adjacent thereto, and any ~~and~~ city contiguous to such an adjacent county or city, or any city with a population of at least 265,000, is hereby authorized to ~~may~~ levy a local income tax at any increment of one-quarter percent up to a maximum rate of ~~one-tenth of~~ one percent upon the Virginia taxable income ~~in excess of \$17,000~~ as determined in § 58.1-322 for an individual, § 58.1-361 for a fiduciary of an estate or trust, or § 58.1-402 for a corporation, for each taxable year of every resident of such county or city or corporation having income from sources within such county or city, subject to the limitations of subsection B of this section. The same rate shall apply to individuals, fiduciaries and corporations.

B. The authority to levy a local income tax as provided in subsection A may be exercised by a county or city governing body only if approved in a referendum within the county or city. The referendum shall be held in accordance with § 24.2-684. The referendum may be initiated either by a resolution of the governing body of the county or city or on the filing of a petition signed by a number of registered voters of the county or city equal in number to ten percent of the number of voters registered in the county or city on January 1 of the year in which the petition is filed with the circuit court of such county or city. The clerk of the circuit court shall publish notice of the election in a newspaper of general circulation in the county or city once a week for three consecutive weeks prior to the election. The ballot used shall be printed to read as follows:

"Shall the governing body of (...name of county or city...) have the authority to levy a local income tax of up to one percent for transportation purposes in accordance with § 58.1-540 of the Code of Virginia?"

☐ Yes

☐ No"

If the voters by a majority vote approve the authority of the local governing body to levy a local income tax, the ~~The~~ tax may be imposed by ~~with~~ the adoption of an ordinance by the governing body of the county or city in accordance with general or special law, and the tax may be thereafter enacted, modified or repealed as any other tax the governing body is empowered to levy subject only to the limitations herein. No ordinance levying a local income tax shall be repealed unless and until all debts or other obligations of the county or city to which such revenues are pledged or otherwise committed have been paid or provision made for payment.

§ 58.1-548. Disposition of revenues; costs of administration.

A. All local income tax revenues collected by the Tax Commissioner pursuant to this article shall be paid into the General Fund of the state treasury.

B. Such revenues shall be transferred monthly by the Comptroller to a special fund entitled "Collections of Local Income Taxes," upon certification of such amounts by the Tax Commissioner.

C. As soon as practicable after the last day of each calendar quarter, the Comptroller shall pay over and distribute to each county and city the local income tax revenues to be estimated by the Tax Commissioner. The Tax Commissioner shall reconcile such estimates during the month following the close of the fiscal year for those returns on file for the preceding taxable year.

D. The direct costs of state administration of the local income tax as certified to the Comptroller by the Department of Taxation shall be deducted on a prorated basis from the distributions to each county and city under subsection C of this section. In determining each county's or city's prorated share of administrative costs, the Comptroller shall apportion the total administrative costs in the ratio which the revenues of each county or city bear to the total local income tax revenues distributed. The direct costs for local administration of the local income tax shall be paid entirely from the local revenues of the county or city.

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59 E. All revenues distributed to a county or city under subsection C of this section shall be applied and  
60 expended for transportation purposes, including, without limitation, construction, administration,  
61 operation, improvement, maintenance and financing of transportation facilities.

62 As used in this section, the term "transportation facilities" shall include all transportation related  
63 facilities including, but not limited to, all highway systems, public transportation or mass transit systems  
64 as defined in § 33.1-12, airports as defined in § 5.1-1, and port facilities as defined in § 62.1-140. Such  
65 term shall be liberally construed for purposes of this section.

66 Any county or city that levies a local income tax under this article shall not reduce the total amount  
67 of its annual general fund appropriations, exclusive of the revenues derived from the tax levied under  
68 this article, for transportation purposes below the total amount appropriated for those purposes in the  
69 fiscal year preceding the adoption of the ordinance levying the tax.

70 Revenues derived by a county or city from the local income tax levied under this article shall be in  
71 addition to those allocated to the county or city from state transportation funds, which allocations shall  
72 not be reduced as a result of any revenues received hereunder.

73 F. If any revenues distributed to a county or city under subsection C of this section are applied or  
74 expended for any transportation facilities under the control and jurisdiction of any state agency, board,  
75 commission or authority, such transportation facilities shall be constructed, operated, administered,  
76 improved and maintained in accordance with laws, rules, regulations, policies and procedures governing  
77 said state agency, board, commission or authority; provided, however, that in the event these revenues,  
78 or a portion thereof, are expended for improving or constructing highways in a county which is subject  
79 to the provisions of § 33.1-75.3, such expenditures shall be undertaken in the manner prescribed in that  
80 statute.

81 § 58.1-609.1. Governmental and commodities exemptions.

82 The tax imposed by this chapter or pursuant to the authority granted in §§ 58.1-605 and 58.1-606  
83 shall not apply to the following:

84 1. Fuels which are subject to the tax imposed by Chapter 22 (§ 58.1-2200 et seq.) of this title.  
85 Persons who are refunded any such fuel tax shall, however, be subject to the tax imposed by this  
86 chapter, unless such taxes would be specifically exempted pursuant to any provision of this section.

87 2. Motor vehicles, trailers, semitrailers, mobile homes and travel trailers.

88 3. Gas, electricity, or water when delivered to consumers through mains, lines, or pipes.

89 4. Tangible personal property for use or consumption by the Commonwealth, any political  
90 subdivision of the Commonwealth, or the United States. This exclusion shall not apply to sales and  
91 leases to privately owned financial and other privately owned corporations chartered by the United  
92 States. Further, this exemption shall not apply to tangible personal property which is acquired by the  
93 Commonwealth or any of its political subdivisions and then transferred to private businesses for their  
94 use in a facility or real property improvement to be used by a private entity or for nongovernmental  
95 purposes other than tangible personal property acquired by the Herbert H. Bateman Advanced  
96 Shipbuilding and Carrier Integration Center and transferred to a Qualified Shipbuilder as defined in the  
97 third enactment of Chapter 790 of the 1998 Acts of the General Assembly.

98 5. Aircraft subject to tax under Chapter 15 (§ 58.1-1500 et seq.) of this title.

99 6. Motor fuels and alternative fuels for use in a commercial watercraft upon which a fuel tax is  
100 refunded pursuant to § 58.1-2259.

101 7. Sales by a government agency of the official flags of the United States, the Commonwealth of  
102 Virginia, or of any county, city or town.

103 8. Materials furnished by the State Board of Elections pursuant to §§ 24.2-404 through 24.2-407.

104 9. Watercraft as defined in § 58.1-1401.

105 10. Tangible personal property used in and about a marine terminal under the supervision of the  
106 Virginia Port Authority for handling cargo, merchandise, freight and equipment. This exemption shall  
107 apply to agents, lessees, sublessees or users of tangible personal property owned by or leased to the  
108 Virginia Port Authority and to property acquired or used by the Authority or by a nonstock, nonprofit  
109 corporation that operates a marine terminal or terminals on behalf of the Authority.

110 11. Sales by prisoners confined in state correctional facilities of artistic products personally made by  
111 the prisoners as authorized by § 53.1-46.

112 12. Tangible personal property for use or consumption by the Virginia Department for the Blind and  
113 Vision Impaired or any nominee, as defined in § 51.5-60, of such Department.

114 13. [Expired.]

115 14. Tangible personal property sold to residents and patients of the Virginia Veterans Care Center at  
116 a canteen operated by the Department of Veterans Services.

117 15. Tangible personal property for use or consumption by any nonprofit organization whose members  
118 include the Commonwealth and other states and which is organized for the purpose of fostering  
119 interstate cooperation and excellence in government.

120 16. Tangible personal property purchased for use or consumption by any soil and conservation



district which is organized in accordance with the provisions of Article 3 (§ 10.1-506 et seq.) of Chapter 5 of Title 10.1.

*17. Food purchased for human consumption, which has the same meaning as "food" defined in the Food Stamp Act of 1977, 7 U.S.C. § 2012, as amended, and federal regulations adopted pursuant to that Act, except it shall not include seeds and plants that produce food for human consumption. For the purpose of this section, "food purchased for human consumption" shall not include food sold by any retail establishment where the gross receipts derived from the sale of food prepared by such retail establishment for immediate consumption on or off the premises of the retail establishment constitutes more than 80 percent of the total gross receipts of that retail establishment, including but not limited to motor fuel purchases, regardless of whether such prepared food is consumed on the premises of that retail establishment. For purposes of this section, "retail establishment" means each place of business for which any "dealer," as defined in § 58.1-612, is required to apply for and receive a certificate of registration pursuant to § 58.1-613.*

**2. That § 58.1-611.1 of the Code of Virginia is repealed.**