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HOUSE BILL NO. 1409

Offered January 23, 2004

A BILL to amend and reenact §§ 3.1-1111, 30-133, 46.2-623, 58.1-611.1, and 58.1-3912 of the Code of Virginia, and to repeal §§ 15.2-1636.20 and 58.1-3916.01 and Chapter 35.1 (§§ 58.1-3523 through 58.1-3536) of Title 58.1 of the Code of Virginia, relating to repeal of the Personal Property Tax Relief Act of 1998.

Patron—Armstrong

Referred to Committee on Finance

Be it enacted by the General Assembly of Virginia:

1. That §§ 3.1-1111, 30-133, 46.2-623, 58.1-611.1, and 58.1-3912 of the Code of Virginia are amended and reenacted as follows:

§ 3.1-1111. Tobacco Indemnification and Community Revitalization Fund; tax credits for technology industries in tobacco-dependent localities.

A. Money received by the Commonwealth pursuant to the Master Settlement Agreement shall be deposited into the state treasury subject to the special nonreverting funds established by subsection B and by §§ 3.1-1109.1 and 32.1-360. ~~However, in no case shall the amount received by the Endowment and Fund be included in general fund revenue calculations for purposes of subsection C of § 58.1-3524 and subsection B of § 58.1-3536.~~

B. There is created in the state treasury a special nonreverting fund to be known as the Tobacco Indemnification and Community Revitalization Fund. The Fund shall be established on the books of the Comptroller. Subject to the sale of all or any portion of the Commission Allocation, ~~forty~~50 percent of the annual amount received by the Commonwealth from the Master Settlement Agreement shall be paid into the state treasury and credited to the Fund. In the event of such sale (i) the Commission Allocation shall be paid in accordance with the agreement for the period of sale and (ii) the Fund shall receive the amounts withdrawn from the Endowment in accordance with § 3.1-1109.1. Interest earned on moneys in the Fund shall remain in the Fund and be credited to it. Any moneys remaining in the Fund, including interest thereon, at the end of each fiscal year shall not revert to the general fund but shall remain in the Fund. Moneys in the Fund shall be used solely for the purposes described in this chapter; however, starting with the fiscal year beginning July 1, 2000, through December 31, 2009, the Commission may deposit moneys from the Fund into the Technology Initiative in Tobacco-Dependent Localities Fund, established under § 58.1-439.15, for purposes of funding the tax credits provided in §§ 58.1-439.13 and 58.1-439.14 and the grants provided in § 58.1-439.17. Expenditures and disbursements from the Fund shall be made by the State Treasurer on warrants issued by the Comptroller upon written authorization signed by the chairman of the Commission or his designee. The Fund shall also consist of other moneys received by the Commission, from any source, for the purpose of implementing the provisions of this chapter.

C. The obligations of the Commission shall not be a debt or grant or loan of credit of the Commonwealth of Virginia, and the Commonwealth shall not be liable thereon, nor shall such obligations be payable out of any funds other than those credited to the Fund.

§ 30-133. Duties and powers generally.

A. The Auditor of Public Accounts shall audit all the accounts of every state department, officer, board, commission, institution or other agency handling any state funds. In the performance of such duties and the exercise of such powers he may employ the services of certified public accountants, provided the cost thereof shall not exceed such sums as may be available out of the appropriation provided by law for the conduct of his office.

B. The Auditor of Public Accounts shall review the information required in § 2.2-1501 to determine that state agencies are providing and reporting appropriate information on financial and performance measures, and the Auditor shall review the accuracy of the management systems used to accumulate and report the results. The Auditor shall report annually to the General Assembly the results of such audits and make recommendations, if indicated, for new or revised accountability or performance measures to be implemented for the agencies audited.

C. The Auditor of Public Accounts shall prepare, by November 1, a summary of the results of all of the audits and other oversight responsibilities performed for the most recently ended fiscal year. The Auditor of Public Accounts shall present this summary to the Senate Finance, House Appropriations and House Finance Committees on the day the Governor presents to the General Assembly the Executive Budget in accordance with §§ ~~2.2-1508 and 2.2-1509~~ or at the direction of the respective Chairman of

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HB1409

59 the Senate Finance, House Appropriations or House Finance Committees at one of their committee
60 meetings prior to the meeting above.

61 D. As part of his normal oversight responsibilities, the Auditor of Public Accounts shall incorporate
62 into his audit procedures and processes a review process to ensure that the Commonwealth's payments
63 for qualifying vehicles, as defined in § 58.1-3523, are consistent with the provisions of §§ 58.1-3525 and
64 58.1-3526. The Auditor of Public Accounts shall report to the Governor and the Chairman of the Senate
65 Finance Committee annually any material failure by a locality or the Commonwealth to comply with the
66 provisions of Chapter 35.1 (§ 58.1-3523 et seq.) of Title 58.1.

67 EC. The Auditor of Public Accounts when called upon by the Governor shall examine the accounts
68 of any institution maintained in whole or in part by the Commonwealth and, upon the direction of the
69 Comptroller, shall examine the accounts of any officer required to settle his accounts with him; and
70 upon the direction of any other state officer at the seat of government he shall examine the accounts of
71 any person required to settle his accounts with such officer.

72 FD. Upon the written request of any member of the General Assembly, the Auditor of Public
73 Accounts shall furnish the requested information and provide technical assistance upon any matter
74 requested by such member.

75 GE. In compliance with the provisions of the federal Single Audit Act Amendments of 1996, Public
76 Law 104-156, the Joint Legislative Audit and Review Commission may authorize the Auditor of Public
77 Accounts to audit biennially the accounts pertaining to federal funds received by state departments,
78 officers, boards, commissions, institutions or other agencies.

79 § 46.2-623. Statements in application.

80 A. Every application for a certificate of title shall contain (i) a statement of the applicant's title and
81 of all liens or encumbrances on the vehicle and the names and addresses of all persons having any
82 interest in the vehicle and the nature of every interest in the vehicle; (ii) the Social Security number, if
83 any, of the owner and, if the application is in the name of an employer for a business vehicle, the
84 employer's identification number assigned by the United States Internal Revenue Service; and (iii) a
85 brief description of the vehicle to be registered, including the name of the maker, the vehicle
86 identification or serial number and, when registering a new vehicle, the date of sale by the manufacturer
87 or dealer to the person first operating the vehicle.

88 B. Not later than July 15, 1998, the lessor of a qualifying vehicle, as defined in § 58.1-3523, shall
89 send a report to the Department for each such qualifying vehicle it was leasing as of July 1, 1998, and
90 has leased between January 1, 1998, and June 30, 1998, containing (i) the name and address of the
91 lessee as it appears in the lease contract; (ii) the social security number of the lessee; and (iii) the
92 registration number of the vehicle as described under Article 4 (§ 46.2-600 et seq.) of Chapter 6 of Title
93 46.2.

94 C. Beginning with August 1998, such lessor shall send a monthly report to the Department, by the
95 fifteenth day of the month or such later day as may be prescribed in the guidelines promulgated under
96 § 58.1-3532, listing any changes, additions or deletions to the information provided under subsection B
97 as of the last day of the preceding month.

98 DB. The application shall contain such additional information as may be required by the Department.

99 § 58.1-611.1. Rate of tax on sales of food purchased for human consumption; Food Tax Reduction
100 Program.

101 A. Subject to the conditions of subsections D and E, the tax imposed by §§ 58.1-603 and 58.1-604
102 on food purchased for human consumption shall be levied and distributed as follows:

103 1. From January 1, 2000, through March 31, 2001, the tax rate on such food shall be three percent
104 of the gross sales price. The revenue from the tax shall be distributed as follows: (i) the revenue from
105 the tax at the rate of one-half percent shall be distributed as provided in subsection A of § 58.1-638, (ii)
106 the revenue from the tax at the rate of one percent shall be distributed as provided in subsections B, C
107 and D of § 58.1-638, and (iii) the revenue from the tax at the rate of one and one-half percent shall be
108 used for general fund purposes.

109 2. From April 1, 2001, through March 31, 2002, the tax rate on such food shall be two and one-half
110 percent of the gross sales price. The revenue from the tax shall be distributed as follows: (i) the revenue
111 from the tax at the rate of one-half percent shall be distributed as provided in subsection A of
112 § 58.1-638, (ii) the revenue from the tax at the rate of one percent shall be distributed as provided in
113 subsections B, C and D of § 58.1-638, and (iii) the revenue from the tax at the rate of one percent shall
114 be used for general fund purposes.

115 3. From April 1, 2002, through March 31, 2003, the tax rate on such food shall be two percent of
116 the gross sales price. The revenue from the tax shall be distributed as follows: (i) the revenue from the
117 tax at the rate of one-half percent shall be distributed as provided in subsection A of § 58.1-638, (ii) the
118 revenue from the tax at the rate of one percent shall be distributed as provided in subsections B, C and
119 D of § 58.1-638, and (iii) the revenue from the tax at the rate of one-half percent shall be used for
120 general fund purposes.

4. On and after April 1, 2003, the tax rate on such food shall be one and one-half percent of the gross sales price. The revenue from the tax shall be distributed as follows: (i) the revenue from the tax at the rate of one-half percent shall be distributed as provided in subsection A of § 58.1-638 and (ii) the revenue from the tax at the rate of one percent shall be distributed as provided in subsections B, C and D of § 58.1-638.

B. The provisions of this section shall not affect the imposition of tax on food purchased for human consumption pursuant to §§ 58.1-605 and 58.1-606.

C. As used in this section, "food purchased for human consumption" 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 which 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.

D. Notwithstanding the tax rates set forth in subsection A, the rate of tax on sales of food purchased for human consumption for any 12-month period beginning on or after April 1, 2001, shall not be reduced below the rate then in effect for the Commonwealth's current fiscal year if:

1. Actual general fund revenues for the fiscal year preceding a fiscal year in which a rate reduction is contemplated in subsection A do not exceed the official general fund revenue estimates for such preceding fiscal year, as estimated in the most recently enacted and approved general appropriation act, by at least one percent; or

2. Any of the events listed in subsection C of § 58.1-3524 or subsection B of § 58.1-3536 have occurred during the then current fiscal year.

3. Actual general fund revenues for a fiscal year, including transfers, are less than the projected general fund revenues, as reported in the general appropriation act in effect at that time, by one-half of one percent or more of the amount of actual general fund revenues for such fiscal year;

4. The general fund revenue forecast provided by the Governor in December pursuant to § 2.2-1503 indicates that general fund revenues, excluding transfers, for any fiscal year will be less than five percent greater than general fund revenues for the immediately preceding fiscal year; or

5. The general fund revenue forecast provided by the Governor in December pursuant to § 2.2-1503 indicates that total general fund revenues available for appropriation, including transfers, for either of the fiscal years covered by the general appropriation act in effect at that time will be less than the general fund appropriations for such fiscal year or years.

E. If the tax rate on food purchased for human consumption remains the same for the period January 1, 2000, through March 31, 2001, and the subsequent 12-month period beginning on April 1, 2001, or with respect to any consecutive 12-month periods beginning on and after April 1, 2001, the tax rate on such food shall remain the same unless none of the conditions described in subsection D have occurred, in which event the tax rate on food purchased for human consumption for the immediately following 12-month period shall be equal to the next lowest tax rate listed in subsection A.

§ 58.1-3912. Treasurers to mail certain bills to taxpayers; penalties; electronic transmission.

A. The treasurer of every city and county shall, as soon as reasonably possible in each year, but not later than fourteen days prior to the due date of the taxes, send or cause to be sent by United States mail to each taxpayer assessed with taxes and levies for that year a bill or bills setting forth the amounts due. The treasurer may elect not to send a bill amounting to twenty dollars or less as shown by an assessment book in such treasurer's office. The treasurer may employ the services of a mailing service or other vendor for fulfilling the requirements of this section. The failure of any such treasurer to comply with this section shall be a Class 4 misdemeanor. Such treasurer shall be deemed in compliance with this section as to any taxes due on real estate if, upon certification by the obligee of any note or other evidence of debt secured by a mortgage or deed of trust on such real estate that an agreement has been made with the obligor in writing within the mortgage or deed of trust instrument that such arrangements be made, he mails the bill for such taxes to the obligee thereof. Upon nonpayment of taxes by either the obligee or obligor, a past-due tax bill will be sent to the taxpayer. No governing body shall publish the name of a taxpayer in connection with a tax debt for which a bill was not sent, without first sending a notice of deficiency to his last known address at least two weeks before such publication.

B. The governing body of any county, city or town may attach to or mail with all real estate and tangible personal property tax bills, prepared for taxpayers in such locality, information indicating how the tax rate charged upon such property and revenue derived therefrom is apportioned among the various

182 services and governmental functions provided by the locality.

183 C. Notwithstanding the provisions of subsection A of this section, in any county which has adopted
184 the urban county executive form of government, and in any county contiguous thereto which has
185 adopted the county executive form of government, tangible personal property tax bills shall be mailed
186 not later than thirty days prior to the due date of such taxes.

187 D. Notwithstanding the provisions of subsection A of this section, any county and town, the
188 governing bodies of which mutually agree, shall be allowed to send, to each taxpayer assessed with
189 taxes, by United States mail no later than ~~fourteen~~ 14 days prior to the due date of the taxes, a single
190 real property tax bill and a single tangible personal property tax bill.

191 E. Beginning with tax year 1999, in addition to all other information currently appearing on tangible
192 personal property tax bills, each such bill required to be sent pursuant to subsection A shall state on its
193 face (i) whether the vehicle is a qualifying vehicle as defined in § 58.1-3523; (ii) a deduction for the
194 amount to be paid by the Commonwealth as determined by § 58.1-3524; (iii) the vehicle's registration
195 number pursuant to § 46.2-604; (iv) the amount of tangible personal property tax levied on the vehicle;
196 and (v) if the locality prorates personal property tax pursuant to § 58.1-3516, the number of months for
197 which a bill is being sent.

198 F. Beginning with tax year 1999 and through the end of tax year 2002, the treasurer shall include a
199 statement, prepared by the Department, with or as part of the tangible personal property tax bills for
200 such qualifying vehicles. The statement shall explain how the deduction for the percentage of the
201 reimbursable amount was calculated, how the deduction shall be calculated in future years, and the
202 taxpayer's liability for tangible personal property taxes on qualifying vehicles.

203 GE. Notwithstanding the provisions of subsection A, the treasurer, consistent with guidelines
204 promulgated by the Department of Taxation implementing the provisions of subdivision 2 of
205 § 58.1-1820, may convey, with the written consent of the taxpayer, any tax bill by electronic means
206 chosen by the taxpayer, including without limitation facsimile transmission or electronic mail (e-mail), in
207 lieu of posting such bill by first-class mail. The treasurer conveying a bill by means authorized in this
208 subsection shall maintain a copy (in written form or electronic media) of the bill reflecting the date of
209 transmission until such time as the bill has been satisfied or otherwise removed from the treasurer's
210 books by operation of law. Transmission of a bill pursuant to this subsection shall have the same force
211 and effect for all purposes arising under this subtitle as mailing to the taxpayer by first-class mail on the
212 date of transmission.

213 2. That §§ 15.2-1636.20 and 58.1-3916.01 and Chapter 35.1 (§§ 58.1-3523 through 58.1-3536) of
214 Title 58.1 of the Code of Virginia are repealed.

215 3. That the provisions of this act shall become effective on January 1, 2005.