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HOUSE BILL NO. 2498

Offered January 12, 2005

Prefiled January 12, 2005

A BILL to amend and reenact §§ 15.2-204, 15.2-1200, 58.1-540, and 58.1-548 of the Code of Virginia, and to repeal Chapter 35.1 (§§ 58.1-3523 through 58.1-3536) of Title 58.1 of the Code of Virginia, relating to local taxes and the Personal Property Tax Relief Act of 1998.

Patron—Amundson

Referred to Committee on Finance

Be it enacted by the General Assembly of Virginia:

1. That §§ 15.2-204, 15.2-1200, 58.1-540, and 58.1-548 of the Code of Virginia are amended and reenacted as follows:

§ 15.2-204. Uniform charter powers.

Cities and towns shall have all powers set forth in Article 1 (§ 15.2-1100 et seq.) of Chapter 11, known as the uniform charter powers. Such powers do not need to be set out or incorporated by reference in a city or town charter.

Counties shall have all powers set forth in Article 1 (~~§ 15.2-1100 et seq.~~) of Chapter 11 only when such powers are specifically conferred upon the county.

§ 15.2-1200. General powers of counties.

A. Any county may adopt such measures, as it deems expedient to secure and promote the health, safety and general welfare of its inhabitants, which are not inconsistent with the general laws of the Commonwealth. Such power shall include, but shall not be limited to, the adoption of quarantine regulations affecting both persons and animals, the adoption of necessary regulations to prevent the spread of contagious diseases among persons or animals and the adoption of regulations for the prevention of the pollution of water which is dangerous to the health or lives of persons residing in the county.

B. Notwithstanding any contrary provision of law, counties shall have all the powers of taxation granted to municipalities in § 15.2-1104.

§ 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~~ *either one-half or one* percent upon the Virginia taxable income 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 *income tax rate allowed under this section* 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

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59 or other obligations of the county or city to which such revenues are pledged or otherwise committed
60 have been paid or provision made for payment.

61 § 58.1-548. Disposition of revenues; costs of administration.

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

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

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

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

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

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

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

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

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

99 2. That Chapter 35.1 (§§ 58.1-3523 through 58.1-3536) of Title 58.1 of the Code of Virginia is
100 repealed.

101 3. That the provisions of this act shall become effective: (i) on January 1, 2007, and (ii) only if a
102 Constitutional amendment to Article X, Section 6 of the Constitution of Virginia making motor
103 vehicles exempt from taxation is ratified by a majority of voters voting on such measure at the
104 election directed by law to be held on the Tuesday after the first Monday in November 2006.