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SENATE BILL NO. 5015

Offered April 19, 2006

A BILL to amend and reenact § 58.1-611.1 of the Code of Virginia and to amend the Code of Virginia by adding in Title 15.2 a chapter numbered 48.3, consisting of sections numbered 15.2-4841 and 15.2-4842, by adding sections numbered 58.1-605.1 and 58.1-606.1, and by adding in Chapter 6 of Title 58.1 a section numbered 58.1-639.1, relating to Interstate 81 Transportation Authorities; transportation funding.

Patron—Potts

Referred to Committee on Finance

Be it enacted by the General Assembly of Virginia:

1. That § 58.1-611.1 of the Code of Virginia is amended and reenacted and that the Code of Virginia is amended by adding in Title 15.2 a chapter numbered 48.3, consisting of sections numbered 15.2-4841 and 15.2-4842, by adding sections numbered 58.1-605.1 and 58.1-606.1, and by adding in Chapter 6 of Title 58.1 a section numbered 58.1-639.1 as follows: **CHAPTER 48.3. INTERSTATE 81 REGIONAL TRANSPORTATION AUTHORITIES.**

§ 15.2-4841. Creation of regional transportation authorities in the Interstate 81 corridor; authority membership.

A. If the governing bodies of each of three or more (i) contiguous counties or cities located along the Interstate 81 corridor or (ii) counties or cities that are included in the same construction district set forth under § 33.1-2 and are located along the Interstate 81 corridor by resolution declare that there is a need for a regional transportation authority to be created for all of such counties and cities to exercise in such counties and cities such powers and other functions prescribed for a regional transportation authority, a body corporate and politic shall be created to perform such powers and functions prescribed under this chapter. The authority shall be known by the name adopted for the authority by its governing body. A copy of the resolutions of the governing bodies of such counties and cities, duly certified by the clerk of the county or city, shall be admissible in evidence in any suit, action, or proceeding.

B. The following persons shall be members of the governing bodies of each regional transportation authority:

1. The chief elected officer of the governing body of each county and city included in the authority or, in the discretion of the chief elected officer, his designee, who shall be a current elected officer of such governing body;

2. At least one but no more than two members of the House of Delegates whose legislative district includes, in whole or in part, a county or city included in the authority, appointed by the Speaker of the House, to the extent practicable, from the membership of the House Committee on Appropriations, the House Committee on Finance, or the House Committee on Transportation;

3. One member of the Senate whose legislative district includes, in whole or in part, a county or city included in the authority, appointed by the Senate Committee on Rules, to the extent practicable, from the membership of the Senate Committee on Finance or the Senate Committee on Transportation; and

4. Two citizens who reside in counties and cities included in the authority, appointed by the Governor. Gubernatorial appointments shall be persons who have significant experience in transportation planning, finance, engineering, construction, or management and shall be residents of a county or city included in the authority, but shall not be a resident of the same county or city as the other gubernatorial appointee to the authority.

Legislative members shall serve terms coincident with their terms of office. Gubernatorial appointees shall serve for a term of four years. Vacancies occurring other than by expiration of a term shall be filled for the unexpired term. Vacancies shall be filled in the same manner as the original appointments.

In addition, the following persons shall serve as nonvoting members of the authority: the Director of the Virginia Department of Rail and Public Transportation, or his designee, and the Commonwealth Transportation Commissioner, or his designee.

Each regional transportation authority shall appoint a chairman and vice-chairman.

C. In addition to such other powers vested in each regional transportation authority by this chapter, each such authority shall have the following powers and functions:

1. The authority shall prepare a regional transportation plan for the counties and cities included in the authority, to include, but not necessarily be limited to, transportation improvements of regional significance, and those improvements necessary or incidental thereto, and shall from time to time revise

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59 and amend the plan. The provisions of Article 7 (§ 15.2-4527 et seq.) of Chapter 45 of this title shall
60 apply, mutatis mutandis, to preparation of such transportation plan.

61 2. The authority may, when a transportation plan is adopted according to subdivision 1, construct or
62 acquire, by purchase, lease, contract, or otherwise, the transportation facilities specified in such
63 transportation plan.

64 3. The authority may enter into agreements or leases with public or private entities for the operation
65 of its facilities, or may operate such facilities itself.

66 4. The authority may enter into contracts or agreements with the counties and cities included in the
67 authority, with other transportation commissions of transportation districts adjoining any county or city
68 included in the authority, with any other transportation authority, or with any state, local, private or
69 federal entity to provide, or cause to be provided, transportation facilities and services to the area
70 included in the authority. Such contracts or agreements, together with any agreements or leases for the
71 operation of such facilities, may be used by the authority to finance the construction and operation of
72 transportation facilities, and such contracts, agreements or leases shall inure to the benefit of any
73 creditor of the authority.

74 Notwithstanding the above, however, the authority shall not have the power to regulate services
75 provided by taxicabs, either within municipalities or across municipal boundaries, which regulation is
76 expressly reserved to the municipalities within which taxicabs operate.

77 5. Notwithstanding any other provision of law to the contrary the authority may:

78 a. Acquire land or any interest therein by purchase, lease, or gift and provide transportation
79 facilities thereon for use in connection with any transportation service;

80 b. Acquire land or any interest therein by purchase, lease, or gift in advance of the need for sale or
81 contribution to an agency, for use by that agency in connection with an adopted transportation plan;
82 and

83 c. Prepare a plan for mass transportation services with persons, cities, counties, agencies,
84 authorities, or transportation commissions and may further contract with any such person or other entity
85 to provide necessary facilities, equipment, operations and maintenance, access, and insurance pursuant
86 to such plan.

87 6. Notwithstanding any contrary provision of this chapter and in accordance with all applicable
88 federal statutes and requirements, the authority may impose and collect tolls in amounts established by
89 the authority for the use of any or all of the transportation facilities within the confines of the authority,
90 subject to the approval of the Commonwealth Transportation Board.

91 7. The authority shall not undertake any action that is contrary to federal or state law.

92 D. A majority of the authority, which majority shall include at least a majority of the representatives
93 of the counties and cities included in the authority, shall constitute a quorum. Decisions of the authority
94 shall require a quorum and shall be in accordance with voting procedures established by the authority.

95 E. The authority shall be responsible for long-range transportation planning for regional
96 transportation projects for the counties and cities included in the authority. In carrying out this
97 responsibility, the authority shall, on the basis of a regional consensus, whenever possible, set regional
98 transportation policies and priorities for regional transportation projects. The policies and priorities
99 shall be guided by performance-based criteria such as the ability to improve travel times, reduce delays,
100 connect regional activity centers, improve safety, improve air quality, and move the most people in the
101 most cost-effective manner.

102 The authority shall report annually on (i) the allocation and expenditure of all moneys received by
103 it; (ii) use of these moneys to reduce traffic congestion in the counties and cities included in the
104 authority; and (iii) use of these moneys to improve air quality in such counties and cities.

105 F. Any county or city that adopts the resolution described in subsection A and that is included in the
106 authority may, by ordinance, levy and collect a local sales and use tax pursuant to §§ 58.1-605.1 and
107 58.1-606.1, provided that each county or city included in the authority authorizes by ordinance the
108 imposition of the taxes set forth in §§ 58.1-605.1 and 58.1-606.1. All revenues collected from such taxes
109 shall be distributed by each county and city to the regional transportation authority in which the county
110 and city is included to be used by such authority solely for the purposes of projects related to
111 transportation along the Interstate 81 corridor for the primary benefit of the members of the authority.

112 § 15.2-4842. Other duties and responsibilities of regional transportation authorities.

113 In addition to other powers herein granted, each regional transportation authority shall have the
114 following duties and responsibilities:

115 1. General oversight of regional programs involving mass transit or congestion mitigation, including,
116 but not necessarily limited to, carpooling, vanpooling, and ridesharing;

117 2. Long-range regional planning, both financially constrained and unconstrained;

118 3. Recommending to state, regional, and federal agencies regional transportation priorities, including
119 public-private transportation projects, and funding allocations;

120 4. Developing, in coordination with affected counties and cities, regional priorities and policies to

improve air quality;

5. Allocating to priority regional transportation projects any funds made available to the authority and, at the discretion of the authority, directly overseeing such projects;

6. Recommending to the Commonwealth Transportation Board priority regional transportation projects for receipt of federal and state funds;

7. Recommending to the Commonwealth Transportation Board use and/or changes in use of tolls for facilities in the area embraced by the authority;

8. General oversight of regional transportation issues of a multijurisdictional nature, including but not limited to intelligent transportation systems, signalization, and preparation for and response to emergencies;

9. Serving as an advocate for the transportation needs of the counties and cities included in the authority;

10. Applying to and negotiating with the government of the United States, the Commonwealth of Virginia, or any agency or instrumentality thereof for grants and any other funds available to carry out the purposes of this chapter and receiving, holding, accepting, and administering from any source gifts, bequests, grants, aid, or contributions of money, property, labor, or other things of value to be held, used and applied to carry out the purposes of this chapter, subject, however, to any conditions upon which gifts, bequests, grants, aid, or contributions are made. Unless otherwise restricted by the terms of the gift, bequest, or grant, the authority may sell, exchange, or otherwise dispose of such money, securities, or other property given or bequeathed to it in furtherance of its purposes;

11. Acting as a "responsible public entity" for the purpose of the acquisition, construction, improvement, maintenance and/or operation of a "qualifying transportation facility" under the Public-Private Transportation Act of 1995 (§ 56-556 et seq.); and

12. Issuing bonds and other evidences of debt as may be authorized by law. The provisions of Article 5 (§ 15.2-4519 et seq.) of Chapter 45 of this title shall apply, mutatis mutandis, to the issuance of such bonds or other debt. The authority may use the revenues described in subsection F of § 15.2-4841 to pay debt service for such bonds and other debt.

§ 58.1-605.1. Additional local sales tax.

A. In addition to any other taxes or fees imposed by law, the governing body of any locality that is a member of an Interstate 81 regional transportation authority pursuant to § 15.2-4841 may by ordinance levy a local sales tax at the rate of one percent to generate revenue for transportation along the Interstate 81 corridor. Such a local tax shall only become effective at such time as each of the members of an Interstate 81 regional transportation authority by ordinance levies the tax. Such tax shall be added to the rate of the local sales tax imposed by § 58.1-605. The tax shall be administered, collected, and distributed by the Tax Commissioner in the same manner as set forth in § 58.1-605, and shall be distributed by the locality as set forth in § 15.2-4841.

B. Any ordinance imposing the local sales tax authorized under this section shall be effective on the first day of the month that is at least 60 days subsequent to the adoption of the ordinance. A certified copy of such ordinance shall be forwarded to the Tax Commissioner so that it will be received within 10 days after its adoption.

§ 58.1-606.1. Additional local use tax.

A. In addition to any other taxes or fees imposed by law, the governing body of any locality that is a member of an Interstate 81 regional transportation authority pursuant to § 15.2-4841 may by ordinance levy a local use tax at the rate of one percent to generate revenue for transportation along the Interstate 81 corridor. Such a local tax shall only become effective at such time as each of the members of an Interstate 81 regional transportation authority by ordinance levies the tax. Such tax shall be added to the rate of the local use tax imposed by § 58.1-606. The tax shall be administered, collected, and distributed by the Tax Commissioner in the same manner as set forth in § 58.1-606, and shall be distributed by the locality as set forth in § 15.2-4841.

B. Any ordinance imposing the local use tax authorized under this section shall be effective on the first day of the month that is at least 60 days subsequent to the adoption of the ordinance. A certified copy of such ordinance shall be forwarded to the Tax Commissioner so that it will be received within 10 days after its adoption.

§ 58.1-611.1. Rate of tax on sales of food purchased for human consumption.

A. The tax imposed by §§ 58.1-603 and 58.1-604 on food purchased for human consumption shall be levied and distributed as follows:

1. From January 1, 2000, through midnight on June 30, 2005, the tax rate on such food shall be three 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, (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, and (iii) the revenue from the tax at the rate of one and one-half

percent shall be used for general fund purposes.

2. On and after July 1, 2005, 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~~, 58.1-605.1, 58.1-606, *and* 58.1-606.1.

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.

§ 58.1-639.1. Exemptions for local sales and use tax.

Any exemption set forth in this chapter for a state or local sales or use tax shall also apply to the taxes imposed by §§ 58.1-605.1 and 58.1-606.1.

2. That the local sales and use tax provided under this act in §§ 58.1-605.1 and 58.1-606.1 of the Code of Virginia shall be levied and imposed only if approved by ordinance adopting the tax by each of the governing bodies who are members of an Interstate regional transportation authority as authorized pursuant to subsection A of § 15.2-4841 of the Code of Virginia.

3. That the Department of Taxation shall promulgate all necessary and reasonable regulations to govern the administration of the taxes created by this act.

4. That the revenues dedicated to transportation purposes pursuant to §§ 58.1-605.1 and 58.1-606.1 of the Code of Virginia shall not be used to calculate or reduce the share of local, federal, and state revenues otherwise available to participating jurisdictions. Further, such revenues and moneys shall not be included in any computation of, or formula for, a locality's ability to pay for public education, upon which appropriations of state revenues to local governments for public education are determined.

5. That if any clause, sentence, paragraph, section, or part of this act or the application thereof to any person, entity, or circumstance is adjudged invalid by any court of competent jurisdiction, such judgment shall not affect the validity of the remainder hereof but shall be confined to the clause, sentence, paragraph, section, or part hereof directly involved in the controversy in which such judgment shall have been rendered, and to this end the provisions of this act are severable.

6. That each county or city that imposes the taxes authorized pursuant to §§ 58.1-605.1 and 58.1-606.1 of the Code of Virginia shall for each fiscal year in which it imposes such tax expend or disburse for transportation purposes an amount (computed without regard to any revenues used for transportation purposes in the county or city generated pursuant to this act under §§ 58.1-605.1 and 58.1-606.1) that is at least equal to the total amount expended or disbursed for transportation purposes by the county or city in its fiscal year that began in calendar year 2005.