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HOUSE BILL NO. 2746

Offered January 10, 2007

Prefiled January 10, 2007

A *BILL to amend and reenact §§ 58.1-540 and 58.1-548 of the Code of Virginia and to repeal § 58.1-549 of the Code of Virginia, relating to local income tax and personal property tax.*

Patron—Englin

Referred to Committee on Finance

Be it enacted by the General Assembly of Virginia:

1. That §§ 58.1-540 and 58.1-548 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 percent rates and brackets as determined by the local governing body in accordance with subsection C and imposed 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, provided the amount of revenues collected from the real property tax imposed by the county or city pursuant to Article 1 (§ 58.1-3200 et seq.) of Chapter 32 is frozen as of the date of adoption of the local property tax.~~ 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 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.

C. *The county or city shall continue to assess real property as provided in Articles 5 (§ 58.1-3250 et seq.), 6 (§ 58.1-3270 et seq.), and 7 (§ 58.1-3280 et seq.) of Chapter 32 and shall determine the additional amount of real property tax revenues that would have been collected if the real property tax had been imposed on such assessments. The local governing body shall then adopt income tax rates and bracket amounts that will allow the county or city to collect local income tax revenues in an amount equal to the difference between the amount it actually collected in real property tax revenues and the amount it would have collected if the county or city had not imposed a local income tax. The local governing body shall publish such rates and brackets no later than January 1 of each year in which it imposes a local income tax.*

§ 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

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59 "Collections of Local Income Taxes," upon certification of such amounts by the Tax Commissioner.

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

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

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

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

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

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

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

93 2. That § 58.1-549 of the Code of Virginia is repealed.

94 3. That the provisions of this act shall become effective on January 1, 2008.