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**SENATE BILL NO. 843**

Offered January 10, 2007

Prefiled January 5, 2007

*A BILL to amend and reenact §§ 15.2-4832, 15.2-4839, 58.1-300, 58.1-520, and 58.1-802 of the Code of Virginia; to amend the Code of Virginia by adding sections numbered 15.2-4838.1, 15.2-4838.2, 46.2-755.1, 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; and to repeal Article 22 (§§ 58.1-540 through 58.1-549) of Chapter 3 of Title 58.1 of the Code of Virginia, relating to the administration and funding of transportation in Northern Virginia.*

Patron—Devolites Davis

Referred to Committee on Transportation

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

**1. That §§ 15.2-4832, 15.2-4839, 58.1-300, 58.1-520, and 58.1-802 of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding sections numbered 15.2-4838.1, 15.2-4838.2, 46.2-755.1, 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:**

§ 15.2-4832. Composition of Authority; membership; terms.

The Authority shall consist of ~~16~~ 20 members as follows:

The chief elected officer of the governing body of each county and city embraced by the Authority or, in the discretion of the chief elected officer, his designee, who shall be a current elected officer of such governing body;

~~Two~~ Four members of the House of Delegates who reside in different counties or cities embraced by 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;

~~One member~~ Two members of the Senate who ~~resides in a county or city~~ reside in different counties or cities embraced by the Authority, appointed by the Senate Committee on Rules, to the extent practicable, from the membership of the Senate Committee on Finance and the Senate Committee on Transportation; ~~and~~

One mayor of a town with a population of at least 3,500 that is within any county embraced by the Authority, appointed by the Governor, with future appointees to this position rotated equally among all such towns; and

Two citizens who reside in counties and cities embraced by the Authority, appointed by the Governor. One gubernatorial appointment shall include a member of the Commonwealth Transportation Board who resides in a county or city embraced by the Authority. The remaining gubernatorial appointment shall be a person who has significant experience in transportation planning, finance, engineering, construction, or management and shall be a resident of a county or city embraced by 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. The gubernatorial appointee who is not a member of the Commonwealth Transportation Board shall serve for a term of four years. *The mayor-of-a-town member shall serve for a term of two 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.

The Authority shall appoint the chairman and vice-chairman.

§ 15.2-4838.1. *Use of certain revenues by the Authority.*

*A. All moneys received by the Authority pursuant to §§ 46.2-755.1, 58.1-605.1, and 58.1-606.1 shall be used by the Authority solely for the primary benefit of those counties and cities that are imposing all of the taxes and fees set forth in such sections.*

*Notwithstanding any other provision of this chapter, all moneys received by the Authority pursuant to §§ 46.2-755.1, 58.1-605.1, and 58.1-606.1 shall be used as follows:*

*1. The first \$50 million received from such moneys in each fiscal year shall be distributed to the Washington Metropolitan Area Transit Authority (WMATA) to provide funds to WMATA as may be required under federal law for the payment of certain federal funds to WMATA. The Northern Virginia*

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59 Transportation Authority shall make such annual distribution from such revenues (i) only to the extent  
60 required under federal law for the payment of federal funds to WMATA, and (ii) only if the Counties of  
61 Arlington and Fairfax and the City of Alexandria are, on and after March 1, 2008, imposing all of the  
62 taxes and the fees authorized pursuant to §§ 46.2-755.1, 58.1-605.1, and 58.1-606.1;

63 2. The next \$25 million received from such moneys by the Authority in each fiscal year shall be  
64 distributed to the Virginia Railway Express for capital projects or operating costs directly relating to  
65 transportation by rail, but only if Prince William County is, on and after March 1, 2008, imposing all  
66 of the taxes and the fees authorized pursuant to §§ 46.2-755.1, 58.1-605.1, and 58.1-606.1; and

67 3. All other remaining revenues received pursuant to §§ 46.2-755.1, 58.1-605.1, and 58.1-606.1 shall  
68 be used by the Authority solely for transportation projects for the localities that are embraced by the  
69 Authority as determined by the Authority subject to all conditions under this chapter.

70 B. Notwithstanding any other provision of this chapter, each dollar of revenue deposited into the  
71 Special Transportation Fund for Northern Virginia pursuant to subsection C of § 58.1-802 shall be  
72 expended or used by the Authority solely for state secondary system or urban system highway projects  
73 in the county or city from which such revenue is generated.

74 § 15.2-4838.2. Special Transportation Fund for Northern Virginia established.

75 There is hereby created in the state treasury a special nonreverting fund to be known as the Special  
76 Transportation Fund for Northern Virginia, hereafter referred to as "the Fund." The Fund shall be  
77 established on the books of the Comptroller. All revenues dedicated for the Fund pursuant to subsection  
78 C of § 58.1-802 and as may be appropriated by the General Assembly shall be paid into the state  
79 treasury and credited to the Fund. Interest earned on moneys in the Fund shall remain in the Fund and  
80 be credited to it. Any moneys remaining in the Fund, including interest thereon, at the end of each  
81 fiscal year shall not revert to the general fund but shall remain in the Fund.

82 Moneys in the Fund shall be used by the Authority solely for the purposes stated in this chapter.  
83 Expenditures and disbursements from the Fund shall be made by the State Treasurer on warrants issued  
84 by the Comptroller upon written request signed by the chairman of the Authority or his designee.

85 § 15.2-4839. Authority to issue bonds.

86 The Authority may issue bonds and other evidences of debt as may be authorized by law. The  
87 provisions of Article 5 (§ 15.2-4519 et seq.) of Chapter 45 of this title shall apply, mutatis mutandis, to  
88 the issuance of such bonds or other debt.

89 Notwithstanding any other provision of this chapter, the Authority shall not use any of the revenues  
90 dedicated to the Special Transportation Fund for Northern Virginia established under § 15.2-4838.2  
91 directly or indirectly to pay debt service on any bond or other evidence of debt, which would establish a  
92 tax-supported debt of the Commonwealth. Further, the Authority shall not enter into any lease  
93 agreement, obligation, or contractual arrangement that creates a direct or contingent financial  
94 obligation of the Commonwealth unless such proposed agreement, obligation, or contractual  
95 arrangement has first been submitted to the State Treasurer sufficiently prior to the execution of such  
96 proposed agreement, obligation, or contractual arrangement to allow the State Treasurer to undertake a  
97 review for the purposes of determining (i) whether the proposed agreement, obligation, or contractual  
98 arrangement may constitute tax-supported debt of the Commonwealth and (ii) the potential impact of the  
99 proposed agreement, obligation, or contractual arrangement on the debt capacity and credit ratings of  
100 the Commonwealth. If after such review the State Treasurer determines that the proposed agreement,  
101 obligation, or contractual arrangement may constitute tax-supported debt of the Commonwealth, or may  
102 have an adverse impact on the debt capacity or the credit ratings of the Commonwealth, the Authority  
103 shall be prohibited from entering into such lease agreement, obligation, or contractual arrangement. The  
104 State Treasurer shall make his written findings available to the members of the Authority as soon as  
105 practical. The Authority may use the revenue generated pursuant to subsection C of § 58.1-802 solely  
106 for costs incurred by the Authority that are not related to bonds or other evidence of debt.

107 § 46.2-755.1. Additional initial license fees in certain localities.

108 In addition to taxes and license fees imposed pursuant to §§ 46.2-752 and 46.2-753 and to all other  
109 fees permitted by law, each of the governing bodies of the Counties of Arlington, Fairfax, Loudoun, and  
110 Prince William, and the Cities of Alexandria, Fairfax, Falls Church, Manassas, and Manassas Park is  
111 authorized to charge an initial, one-time license fee on all vehicles for which the locality is authorized  
112 under this chapter to collect a license fee, at the rate of 0.50% of the average retail value of the vehicle  
113 according to the National Automobile Dealers Association, or successor thereto, at the time the vehicle  
114 is first registered in the locality by the owner of the vehicle or in the name of the owner of the vehicle.  
115 If the model or year of an individual vehicle is not listed by the National Automobile Dealers  
116 Association, the individual vehicle may be valued on the basis of percentage or percentages of original  
117 cost. License fees authorized by this section shall be imposed only once for each vehicle, so long as the  
118 ownership of the vehicle upon which they are imposed remains unchanged.

119 The license fee shall not be imposed for any vehicle owned by a demolisher, rebuilder, salvage  
120 dealer, salvage pool, scrap metal processor, or vehicle removal operator, as such terms are defined in

§ 46.2-1600, provided that such vehicle is acquired by such person for (i) demolition or salvage; (ii) repairing into a rebuilt or repaired vehicle as such terms are defined in § 46.2-1600; or (iii) resale to a demolisher, scrap metal processor, or salvage dealer as such terms are defined in § 46.2-1600.

The governing body of the city or county shall transfer the revenues collected from the additional fees imposed pursuant to this section to the Northern Virginia Transportation Authority established under § 15.2-4830 as soon as practical. The Authority shall use such funds solely for the purposes as provided in § 15.2-4838.1.

No locality imposing the initial, one-time license fee pursuant to this section shall cease to impose such fee so long as the Northern Virginia Transportation Authority (i) is currently engaged in a transportation project within the boundaries of the locality, (ii) has entered into a binding commitment to begin a transportation project within the boundaries of the locality, or (iii) has issued bonds or incurred other evidence of debt that has not been satisfied or paid in full and that relates to a transportation project undertaken by the Authority within the boundaries of the locality.

§ 58.1-300. Incomes not subject to local taxation.

~~Except as provided in § 58.1-540, no~~ No county, city, town or other political subdivision of this Commonwealth shall impose any tax or levy upon incomes, incomes being hereby segregated for state taxation only.

§ 58.1-520. Definitions.

As used in this article:

"Claimant agency" means any administrative unit of state, county, city or town government, including department, institution, commission, authority, or the office of Executive Secretary of the Supreme Court, any circuit or district court and the Internal Revenue Service. All state agencies and institutions shall participate in the setoff program.

"Debtor" means any individual having a delinquent debt or account with any claimant agency which obligation has not been satisfied by court order, set aside by court order, or discharged in bankruptcy.

"Delinquent debt" means any liquidated sum due and owing any claimant agency, or any restitution ordered paid to a clerk of the court pursuant to Title 19.2, including any amount of court costs or fines which have accrued through contract, subrogation, tort, operation of law, or any other legal theory regardless of whether there is an outstanding judgment for that sum which is legally collectible and for which a collection effort has been or is being made.

"Mailing date of notice" means the date of notice appearing thereon.

"Refund" means any individual's Virginia state ~~or local~~ income tax refund payable pursuant to ~~§§ 58.1-309 and 58.1-546~~ § 58.1-309. This term also includes any refund belonging to a debtor resulting from the filing of a joint income tax return or a refund belonging to a debtor resulting from the filing of a return where husband and wife have elected to file a combined return and separately state their Virginia taxable incomes under the provisions of § 58.1-324 B 2.

§ 58.1-605.1. Additional local sales tax.

A. In addition to any other taxes, fees, or other charges imposed under law, each of the governing bodies of the Counties of Arlington, Fairfax, Loudoun, and Prince William and the Cities of Alexandria, Fairfax, Falls Church, Manassas, and Manassas Park may by ordinance levy a local retail sales tax at the rate of 0.50% to generate revenue for transportation, provided that the governing body of the county or city authorizes the Tax Commissioner to transfer the revenues collected from such tax to the Northern Virginia Transportation Authority established under § 15.2-4830. Such tax shall not be levied upon food purchased for human consumption as defined in § 58.1-611.1. Such tax shall be added to the rate of the local sales tax imposed pursuant to the authority granted under § 58.1-605 and shall be subject to all the provisions of this chapter and the rules and regulations published with respect thereto. No discount under § 58.1-622 shall be allowed for the tax described under this section. Such tax shall be administered and collected by the Tax Commissioner in the same manner and subject to the same penalties as provided for the state sales tax.

B. Any ordinance imposing the local retail 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.

C. The revenue generated and collected pursuant to the tax authorized under this section, less the applicable portion of any refunds to taxpayers, shall be deposited and held in a special trust fund under the control of the State Treasurer entitled "Special Sales and Use Tax Fund Account of the Northern Virginia Transportation Authority." The State Treasurer shall distribute the amounts deposited in the special trust fund monthly to the Northern Virginia Transportation Authority. The Authority shall use such funds solely for the purposes as provided in § 15.2-4838.1.

D. No locality imposing the local retail sales tax pursuant to this section shall cease to impose such tax so long as the Northern Virginia Transportation Authority (i) is currently engaged in a

182 transportation project within the boundaries of the locality, (ii) has entered into a binding commitment  
183 to begin a transportation project within the boundaries of the locality, or (iii) has issued bonds or  
184 incurred other evidence of debt that has not been satisfied or paid in full and that relates to a  
185 transportation project undertaken by the Authority within the boundaries of the locality.

186 § 58.1-606.1. Additional local use tax.

187 A. In addition to any other taxes, fees, or other charges imposed under law, each of the governing  
188 bodies of the Counties of Arlington, Fairfax, Loudoun, and Prince William and the Cities of Alexandria,  
189 Fairfax, Falls Church, Manassas, and Manassas Park may by ordinance levy a local use tax at the rate  
190 of 0.50% to generate revenue for transportation, provided that the governing body of the county or city  
191 authorizes the Tax Commissioner to transfer the revenues collected from such tax to the Northern  
192 Virginia Transportation Authority established under § 15.2-4830. Such tax shall not be levied upon food  
193 purchased for human consumption as defined in § 58.1-611.1. Such tax shall be added to the rate of the  
194 local use tax imposed pursuant to the authority granted under § 58.1-606 and shall be subject to all the  
195 provisions of this chapter and the rules and regulations published with respect thereto. No discount  
196 under § 58.1-622 shall be allowed for the tax described under this section. Such tax shall be  
197 administered and collected by the Tax Commissioner in the same manner and subject to the same  
198 penalties as provided for the state use tax.

199 B. Any ordinance imposing the local use tax authorized under this section shall be effective on the  
200 first day of the month that is at least 60 days subsequent to the adoption of the ordinance. A certified  
201 copy of such ordinance shall be forwarded to the Tax Commissioner so that it will be received within  
202 10 days after its adoption.

203 C. The revenue generated and collected pursuant to the tax authorized under this section, less the  
204 applicable portion of any refunds to taxpayers, shall be deposited and held in a special trust fund under  
205 the control of the State Treasurer entitled "Special Sales and Use Tax Fund Account of the Northern  
206 Virginia Transportation Authority." The State Treasurer shall distribute the amounts deposited in the  
207 special trust fund monthly to the Northern Virginia Transportation Authority. The Authority shall use  
208 such funds solely for the purposes as provided in § 15.2-4838.1.

209 D. No locality imposing the local use tax pursuant to this section shall cease to impose such tax so  
210 long as the Northern Virginia Transportation Authority (i) is currently engaged in a transportation  
211 project within the boundaries of the locality, (ii) has entered into a binding commitment to begin a  
212 transportation project within the boundaries of the locality, or (iii) has issued bonds or incurred other  
213 evidence of debt that has not been satisfied or paid in full and that relates to a transportation project  
214 undertaken by the Authority within the boundaries of the locality.

215 § 58.1-639.1. Exemptions for local sales and use tax.

216 Any exemption set forth in this chapter, or established pursuant to the administrative process under  
217 § 58.1-609.11, for a state sales or use tax or a local sales or use tax under § 58.1-605 or 58.1-606 shall  
218 also apply to the taxes imposed pursuant to §§ 58.1-605.1 and 58.1-606.1.

219 § 58.1-802. Additional tax paid by grantor; collection.

220 A. In addition to any other tax imposed under the provisions of this chapter, a tax is hereby imposed  
221 on each deed, instrument, or writing by which lands, tenements or other realty sold is granted, assigned,  
222 transferred, or otherwise conveyed to, or vested in the purchaser, or any other person, by such  
223 purchaser's direction. ~~The~~ Except as provided in subsection C, the rate of the tax, when the consideration  
224 or value of the interest exceeds \$100, shall be ~~50~~ 10 cents for each ~~\$500~~ \$100 or fraction thereof,  
225 exclusive of the value of any lien or encumbrance remaining thereon at the time of the sale, whether  
226 such lien is assumed or the realty is sold subject to such lien or encumbrance. ~~No increase in the city or~~  
227 ~~county recordation tax authorized by § 58.1-814 shall be deemed authorized by this section.~~

228 The tax imposed by this section shall be paid by the grantor, or any person who signs on behalf of  
229 the grantor, of any deed, instrument or writing subject to the tax imposed by this section.

230 No such deed, instrument or other writing shall be admitted to record without certification of the  
231 clerk of the court wherein first recorded having been affixed thereto that the tax imposed by this section  
232 has been paid. The clerk shall include within the certificate the amount of such tax collected thereon.

233 B. Taxes imposed by this section shall be collected as provided in § 58.1-812 and the clerk shall  
234 return taxes collected hereunder, *except as provided in subsection C*, one-half into the state treasury and  
235 one-half into the treasury of the locality.

236 The local portion of the tax imposed by this section on property which is located in more than one  
237 jurisdiction shall be collected by the clerk in proportion to the value of the property located in each such  
238 locality when recorded therein.

239 Every clerk of court collecting taxes under this section for the county or city which he serves shall  
240 be entitled to compensation for such service at five percent of the amount so collected and paid, *with*  
241 *such compensation based on a rate of 10 cents for each \$100 or fraction thereof as determined*  
242 *pursuant to subsection A.*

243 C. The rate of the tax imposed pursuant to this section, when the consideration or value of the

interest exceeds \$100, shall be 50 cents for each \$100 or fraction thereof for lands, tenements, or other realty that is located in the Counties of Arlington, Fairfax, Loudoun, and Prince William and the Cities of Alexandria, Fairfax, Falls Church, Manassas, and Manassas Park, exclusive of the value of any lien or encumbrance remaining thereon at the time of the sale, whether such lien is assumed or the realty is sold subject to such lien or encumbrance.

The clerk shall return taxes collected hereunder for lands, tenements, or other realty that is located in the counties and cities set forth in this subsection as follows: (i) taxes collected at the rate of 40 cents for each \$100 or fraction thereof as determined pursuant to subsection A shall be returned by the clerk to the state treasury, and such revenues shall be deposited by the Comptroller into the Special Transportation Fund for Northern Virginia established under § 15.2-4838.2 as soon as practical; (ii) taxes collected at the rate of 5 cents for each \$100 or fraction thereof shall be returned by the clerk to the state treasury, and such revenues shall be deposited by the Comptroller into the general fund of the state treasury; and (iii) taxes collected at the rate of 5 cents for each \$100 or fraction thereof shall be returned into the treasury of such county or city in which the lands, tenements, or other realty is located. For such deposits into the Special Transportation Fund for Northern Virginia, the Comptroller shall establish subfunds for each such county and city and shall deposit such revenues generated by virtue of lands, tenements, or other realty located in such counties and cities into the respective subfund.

D. No increase in the city or county recordation tax authorized by § 58.1-814 shall be deemed authorized by this section.

2. That each county or city that imposes taxes or fees pursuant to § 46.2-755.1, 58.1-605.1, or 58.1-606.1 of the Code of Virginia shall for each fiscal year in which it imposes such taxes or fees expend or disburse for transportation purposes an amount (computed without regard to any revenues generated in the fiscal year from such taxes or fees) 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 2006.

3. That any revenues distributed to the Northern Virginia Transportation Authority pursuant to § 46.2-755.1, 58.1-605.1, 58.1-606.1, or 58.1-802 of the Code of Virginia shall not be used to calculate or reduce the share of local, federal, and state revenues otherwise available to any county or city set forth in subsection A of § 58.1-605.1 or subsection A of § 58.1-606.1 of the Code of Virginia or otherwise available to the Northern Virginia Transportation District. 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.

4. That Article 22 (§§ 58.1-540 through 58.1-549) of Chapter 3 of Title 58.1 of the Code of Virginia is repealed.