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HOUSE BILL NO. 1839

Offered January 14, 2009

Prefiled January 12, 2009

A BILL to amend and reenact § 58.1-3221.3 of the Code of Virginia, and to amend Chapter 896 of the Acts of Assembly of 2007 by adding declarations immediately after the title, relating to transportation and economic recovery in Northern Virginia.

Patron—Albo

Referred to Committee on Finance

Be it enacted by the General Assembly of Virginia:**1. That § 58.1-3221.3 of the Code of Virginia is amended and reenacted as follows:**

§ 58.1-3221.3. Classification of certain commercial and industrial real property and taxation of such property by certain localities included in the Northern Virginia Transportation Authority and the Hampton Roads Transportation Authority.

A. Beginning January 1, 2008, and solely for the purposes of imposing the tax authorized pursuant to this section, in the counties and cities that are embraced by the Northern Virginia Transportation Authority, all real property used for or zoned to permit commercial or industrial uses is hereby declared to be a separate class of real property for local taxation. Such classification of real property shall exclude all residential uses and all multifamily residential uses, including but not limited to single family residential units, cooperatives, condominiums, townhouses, apartments, or homes in a subdivision when leased on a unit by unit basis even though these units may be part of a larger building or parcel of real estate containing more than four residential units.

B. In addition to all other taxes and fees permitted by law, (i) the governing body of any locality embraced by the Northern Virginia Transportation Authority may, by ordinance, annually impose on all real property in the locality specially classified in subsection A: an amount of real property tax, in addition to such amount otherwise authorized by law, at a rate not to exceed ~~\$0.25~~ *\$0.125* per \$100 of assessed value as the governing body may, by ordinance, impose upon the annual assessed value of all real property used for or zoned to permit commercial or industrial uses; and (ii) the governing body of any locality embraced by the Hampton Roads Transportation Authority may, by ordinance, annually impose on all real property in the locality specially classified in subsection A: an amount of real property tax, in addition to such amount otherwise authorized by law, at a rate not to exceed \$0.10 per \$100 of assessed value as the governing body may, by ordinance, impose upon the annual assessed value of all real property used for or zoned to permit commercial or industrial uses. The authority granted in this subsection shall be subject to the following conditions:

(1) Upon appropriation, all revenues generated from the additional real property tax imposed shall be used exclusively for transportation purposes that benefit the locality imposing the tax; and

(2) The additional real property tax imposed shall be levied, administered, enforced, and collected in the same manner as set forth in Subtitle III of Title 58.1 for the levy, administration, enforcement, and collection of local taxes. In addition, the local assessor shall separately assess and set forth upon the locality's land book the fair market value of that portion of property that is defined as a separate class of real property for local taxation in accordance with the provisions of this section.

C. Beginning January 1, 2008, in lieu of the authority set forth in subsections A and B above and solely for the purposes of imposing the tax authorized pursuant to this section, in the counties and cities embraced by the Northern Virginia Transportation Authority and the Hampton Roads Transportation Authority, all real property used for or zoned to permit commercial or industrial uses is hereby declared to be a separate class of real property for local taxation. Such classification of real property shall exclude all residential uses and all multifamily residential uses, including but not limited to single family residential units, cooperatives, condominiums, townhouses, apartments, or homes in a subdivision when leased on a unit by unit basis even though these units may be part of a larger building or parcel of real estate containing more than four residential units.

D. In addition to all other taxes and fees permitted by law, (i) the governing body of any locality embraced by the Northern Virginia Transportation Authority may, by ordinance, create within its boundaries, one or more special regional transportation tax districts and, thereafter, may, by ordinance, impose upon the real property located in special regional transportation tax districts specially classified in subsection C within such special regional transportation tax districts: an amount of real property tax, in addition to such amounts otherwise authorized by law, at a rate not to exceed ~~\$0.25~~ *\$0.125* per \$100 of assessed value as the governing body may, by ordinance, impose upon the annual assessed value of

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59 all real property used for or zoned to permit commercial or industrial uses; and, (ii) the governing body
60 of any locality embraced by the Hampton Roads Transportation Authority may, by ordinance, create
61 within its boundaries, one or more special regional transportation tax districts and, thereafter, may, by
62 ordinance, impose upon the real property specially classified in subsection C within such special regional
63 transportation tax districts: an amount of real property tax, in addition to such amounts otherwise
64 authorized by law, at a rate not to exceed \$0.10 per \$100 of assessed value as the governing body may,
65 by ordinance, impose upon the annual assessed value of all real property used for or zoned to permit
66 commercial or industrial uses. The authority granted in this subsection shall be subject to the following
67 conditions:

68 (1) Notwithstanding any other provisions of law to the contrary, upon appropriation, all revenues
69 generated from the additional real property taxes imposed in accordance with subsection C and this
70 subsection shall be used for transportation purposes that benefit the special regional transportation tax
71 district to which such revenue is attributable;

72 (2) Any local ordinance adopted in accordance with the provisions of subsection C and this
73 subsection shall include the requirement that the additional real property taxes so authorized are to be
74 imposed annually in accordance with applicable law;

75 (3) Any locality that imposes the additional real property taxes set forth in subsections A and B shall
76 not be permitted to also impose the additional real property taxes set forth in subsection C and this
77 subsection. In addition, any locality electing to impose the additional real property taxes on all real
78 property located in such locality that is specially classified in subsections A and B must do so in the
79 manner prescribed in subsections A and B and not by creation of a special transportation tax district as
80 set forth in subsection C and this subsection. The creation of such special regional transportation tax
81 districts shall not, however, affect the authority of a locality to establish tax districts pursuant to other
82 provisions of law;

83 (4) The total revenues generated from the additional real property taxes imposed in accordance with
84 subsection C and this subsection shall not be less than 85% of the revenues estimated to be generated
85 when imposing the additional real property taxes in accordance with subsections A and B at the rate of
86 ~~\$0.25~~ \$0.125 per \$100 of assessed value in any locality embraced by the Northern Virginia
87 Transportation Authority and at the rate of \$0.10 per \$100 of assessed value in any locality embraced by
88 the Hampton Roads Transportation Authority; and

89 (5) The additional real property taxes imposed pursuant to subsection C and this subsection shall be
90 levied, administered, enforced, and collected, in the same manner as set forth in Subtitle III of Title 58.1
91 for the levy, administration, enforcement, and collection of all local taxes. In addition, the local assessor
92 shall separately assess and set forth upon the locality's land book the fair market value of that portion of
93 property that is defined as separate class of real property for local taxation in accordance with the
94 provisions of this section.

95 *E. (1) In addition to all other taxes and fees permitted by law, including but not limited to the tax*
96 *pursuant to subsection B or D. The governing body of any locality embraced by the Northern Virginia*
97 *Transportation Authority may, by ordinance, annually impose on all commercial or industrial real*
98 *property as described in subsection A, real property tax, at a rate as determined by the governing body,*
99 *not to exceed \$0.125 per \$100 of assessed value.*

100 (2) *The authority granted in this subsection shall be subject to the following conditions:*

101 (a) *Upon approval, all revenue generated from the additional real property tax shall be used*
102 *exclusively for road or public transit projects in the most recent financially constrained long range plan*
103 *of the National Capital Region or the most recent long range plan approved by the Northern Virginia*
104 *Transportation Authority. Road projects shall be construction of improvements to existing facilities or*
105 *construction of new facilities that carry more than 30,000 thousand average daily trips or have level of*
106 *service E or worse. Public transit improvements shall be (i) to existing services for which peak period*
107 *demand exceeds 75% of capacity or (ii) new inter- or intra-jurisdictional service for which a*
108 *documented demand exists.*

109 (b) *Of the projects selected, a preference shall be given to fund projects that leverage other public or*
110 *private funding sources, including, but not limited to funds from private sources pursuant to the*
111 *Public-Private Transportation Act (§ 56-556 et seq.), funds from tolls, or funds provided by the Northern*
112 *Virginia Transportation Authority.*

113 (c) *The additional real property tax imposed shall be levied, administered, enforced, and collected in*
114 *the same manner as set forth in Subtitle III of Title 58.1 for the levy, administration, enforcement, and*
115 *collection of local taxes. In addition, the local assessor shall separately assess and set forth upon the*
116 *locality's land book the fair market value of that portion of property that is defined as a separate class*
117 *of real property for local taxation in accordance with the provisions of this section.*

118 **2. That Chapter 896 of the Acts of Assembly of 2007 is amended and reenacted by adding**
119 **declarations immediately after the title as follows:**

120 *Whereas, the demand for and use of transportation facilities within a region increase as the*

population and density of development increase, and the rate of increase in population and density of development is far greater in the Northern Virginia Transportation District; and

Whereas, the federal government has recognized the importance of transportation planning on a regional basis; and

Whereas, the General Assembly has established the Northern Virginia Transportation District for planning and construction of transportation projects within the localities embraced by these districts; and

Whereas, the most populous region of the Commonwealth is embraced by the Northern Virginia Transportation District; and

Whereas, the highways within the localities embraced by the Northern Virginia Transportation District have more daily vehicle miles traveled per lane mile than any other highways embraced by any other transportation districts in the Commonwealth; and

Whereas, there are more than 48,900,000 daily vehicle miles traveled in the localities embraced by the Northern Virginia Transportation District, which is far more than any other transportation district; and

Whereas, more than 22 percent of the daily vehicle miles traveled in the Commonwealth are in the localities embraced by the Northern Virginia Transportation District; and now, therefore,

The General Assembly declares it to be in the public interest that the economic development need and economic growth potential of Northern Virginia be addressed by special transportation revenues to provide for the costs of providing an adequate, modern, safe, and efficient transportation network in Northern Virginia and hereby enacts the following legislation to provide for the same.