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HOUSE BILL NO. 1865

Offered January 12, 2011

Prefiled January 11, 2011

A BILL to amend and reenact §§ 15.2-4504 and 58.1-1720 of the Code of Virginia, relating to local transportation districts and motor fuel taxes imposed and collected by members of such districts.

Patron—Cole (By Request)

Referred to Committee on Counties, Cities and Towns

Be it enacted by the General Assembly of Virginia:

1. That §§ 15.2-4504 and 58.1-1720 of the Code of Virginia are amended and reenacted as follows:

§ 15.2-4504. Procedure for creation of districts; single jurisdictional districts; application of chapter to port authorities and airport commissions.

(1) A. Any two or more counties or cities, or portions or combinations thereof, may, in conformance with the procedure set forth herein, or as otherwise may be provided by law, constitute a transportation district and shall have and exercise the powers set forth herein and such additional powers as may be granted by the General Assembly. A transportation district may be created by ordinance adopted by the governing body of each participating county and city, which ordinances (i) shall (1) set forth the name of the proposed transportation district, (which shall include the words "transit district" or "transportation district,"), (2) (ii) shall fix the boundaries thereof, (3) (iii) shall name the counties and cities which, or portions thereof that are, in whole or in part, to be embraced therein, and (4) (iv) shall specify the terms and conditions under which any county or city or portion thereof embraced by the district may withdraw or partially withdraw therefrom, and (v) shall contain a finding that the orderly growth and development of the county or city and the comfort, convenience and safety of its citizens require an improved transportation system, composed of transit facilities, public highways and other modes of transport, and that joint action through a transportation district by the counties and cities which are to compose the proposed transportation district will facilitate the planning and development of the needed transportation system. Such ordinances shall be filed with the Secretary of the Commonwealth and upon certification by that officer to the Tax Commissioner and the governing bodies of each of the participating counties and cities that the ordinances required by this chapter have been filed and, upon the basis of the facts set forth therein, satisfy such requirements, the territory defined in such ordinances, upon the entry of such certification in the minutes of the proceedings of the governing bodies of each of the counties and cities, shall be and constitute a transportation district for all of the purposes of this chapter, known and designated by the name stated in the ordinances.

(2) B. Notwithstanding the provisions of subsection (1) A, any county or city may, subject to the applicable provisions of this chapter, constitute itself a transportation district in the event that no governing body of any contiguous county or city wishes to combine for such purpose, provided that the governing body of such single jurisdictional transportation district shall comply with the provisions of subsection (1) A by adopting an ordinance which that (i) shall (1) set forth the name of the proposed transportation district, which shall include the words "transit district" or "transportation district," (2) (ii) shall fix, in such county or city, the boundaries thereof, (3) (iii) shall name the county or city which that is in whole or in part to be embraced therein, and (4) (iv) shall contain a finding that the orderly growth and development of the county or city and the comfort, convenience and safety of its citizens require an improved transportation district, composed of transit facilities, public highways, and other modes of transport, and that joint action with contiguous counties and cities has not been agreed to at this time, but that the formation of a transportation district will facilitate the planning and development of the needed transportation system, and shall file such ordinance in the manner and mode required by subsection (1) A. At such time as the governing body of any contiguous county or city desires to combine with the original jurisdiction for the formation of an enlarged transportation district, it shall enter into an agreement with the commission of the original transportation district on such terms and conditions, consistent with the provisions of this chapter, as may be agreed upon by such commission and such additional county or city, and in conformance with the following procedures. The governing body of the county or city having jurisdiction over the territory to be added to the original transportation district shall adopt an ordinance specifying the area to be enlarged, containing the finding specified in subsection (1) A, and a statement that a contract or agreement between the county or city and the commission, specifying the terms and conditions of admittance to the transportation district, has been executed. The ordinance to which shall be attached a certified copy of such contract, shall be filed with the Secretary of the Commonwealth, and upon certification by that officer to the Tax Commissioner, the

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59 commission, and to the governing bodies of each of the component counties and cities that the
60 ordinance required by this section has been filed, and that the terms thereof conform to the requirements
61 of this section, such additional county, or part thereof, or city, upon the entry of such certification in the
62 minutes of the proceedings of the governing body of such county or city, shall become a component
63 government of the transportation district and the county, or portion thereof specified, or city shall be
64 embraced in the territory of the transportation district.

65 § 58.1-1720. Tax on fuel sold in certain transportation districts.

66 A. In addition to all other taxes now imposed by law, there is ~~hereby~~ *may be* imposed a license or
67 privilege tax upon every distributor who engages in the business of selling fuels at wholesale to retail
68 dealers for retail sale in (i) any county or city *or portion thereof* that is a member of any transportation
69 district in which a rapid heavy rail commuter mass transportation system operating on an exclusive
70 right-of-way and a bus commuter mass transportation system are owned, operated or controlled, by an
71 agency or a commission as defined in § 15.2-4502, or (ii) any county or city *or portion thereof* that is a
72 member of any transportation district that is subject to § 15.2-4515 C and that is contiguous to the
73 Northern Virginia Transportation District. *Imposition and collection of any such tax and the rate of such*
74 *tax shall be as determined by the local governing body of the county or city in which it is to be imposed*
75 *and collected.*

76 The tax shall be imposed at a rate of *not more than* 2.1 percent of the sales price charged by a
77 distributor for fuels sold to a retail dealer for retail sale in any such county or city described in clause
78 (i) or (ii). Such tax shall be imposed at the time of the sale by the distributor to the retail dealer. The
79 tax imposed by this article shall be paid by the distributor, but the distributor shall separately state the
80 amount of the tax and add such tax to the sales price or charge. Thereafter, such tax shall be a debt
81 from the retail dealer until paid and shall be recoverable at law in the same manner as other debts.

82 B. Every distributor collecting the tax imposed under this article shall file a monthly return no later
83 than the twentieth of each month on a form prescribed by the Department, covering the sale of fuels by
84 such distributor during the preceding month, for which tax is imposed pursuant to subsection A.

85 For purposes of compensating a distributor for accounting for and remitting the tax levied by this
86 article, such distributor shall be allowed to deduct two percent of the tax otherwise due in submitting his
87 return and paying the amount due by him if the amount was not delinquent at the time of payment.