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HOUSE BILL NO. 546

Offered January 13, 2016

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A BILL to amend and reenact §§ 15.2-204, 33.2-319, and 58.1-3840 of the Code of Virginia, relating to powers of certain counties.

Patron—Watts

Referred to Committee on Finance

Be it enacted by the General Assembly of Virginia:

1. That §§ 15.2-204, 33.2-319, and 58.1-3840 of the Code of Virginia are amended and reenacted as follows:

§ 15.2-204. Uniform charter powers.

Cities and towns, and counties with a population density greater than 2,000 persons per square mile, shall have all powers set forth in Article 1 (§ 15.2-1100 et seq.) of Chapter 11, known as the uniform charter powers. Such powers do not need to be set out or incorporated by reference in a city or town charter.

Counties with a population density of no greater than 2,000 persons per square mile shall have all powers set forth in Article 1 (§ 15.2-1100 et seq.) of Chapter 11 only when such powers are specifically conferred upon the county.

§ 33.2-319. Payments to cities and certain towns for maintenance of certain highways.

The Commissioner of Highways, subject to the approval of the Board, shall make payments for maintenance, construction, or reconstruction of highways to all counties, cities, and towns eligible for funds under this section. Such payments, however, shall only be made if those highways functionally classified as principal and minor arterial roads are maintained to a standard satisfactory to the Department. Whenever any county, city, or town qualifies under this section for allocation of funds, such qualification shall continue to apply to such county, city, or town regardless of any subsequent change in population or population density and shall cease to apply only when so specifically provided by an act of the General Assembly.

Funds are allocated to urban highways in (i) all towns that have a population of more than 3,500 according to the last preceding United States census; (ii) all towns that, according to evidence satisfactory to the Board, have attained a population of more than 3,500 since the last preceding United States census; (iii) Chase City, Elkton, Grottoes, Narrows, Pearisburg, and Saltville, which, on June 30, 1985, maintained certain streets under former § 33.1-80 as then in effect; (iv) all cities regardless of their populations; (v) all counties with a population density greater than 2,000 persons per square mile; and (vi) the Towns of Altavista, Lebanon, and Wise.

No payments shall be made to any such county, city, or town unless the portion of the highway for which such payment is made either (a) has (1) an unrestricted right-of-way at least 50 feet wide and (2) a hard-surface width of at least 30 feet; (b) has (1) an unrestricted right-of-way at least 80 feet wide, (2) a hard-surface width of at least 24 feet, and (3) approved engineering plans for the ultimate construction of an additional hard-surface width of at least 24 feet within the same right-of-way; (c) (1) is a cul-de-sac, (2) has an unrestricted right-of-way at least 40 feet wide, and (3) has a turnaround that meets applicable standards set by the Department; (d) either (1) has been paved and has constituted part of the primary or secondary state highway system prior to annexation or incorporation or (2) has constituted part of the secondary state highway system prior to annexation or incorporation and is paved to a minimum width of 16 feet subsequent to such annexation or incorporation and with the further exception of streets or portions thereof that have previously been maintained under the provisions of § 33.2-339 or 33.2-340; (e) was eligible for and receiving such payments under the laws of the Commonwealth in effect on June 30, 1985; (f) is a street established prior to July 1, 1950, that has an unrestricted right-of-way width of not less than 30 feet and a hard-surface width of not less than 16 feet; (g) is a street functionally classified as a local street that was constructed on or after January 1, 1996, and that at the time of approval by the county, city, or town met the criteria for pavement width and right-of-way of the then-current design standards for subdivision streets as set forth in regulations adopted by the Board; (h) is a street previously eligible to receive street payments that is located in the City of Norfolk or the City of Richmond and is closed to public travel, pursuant to legislation enacted by the governing body of the locality in which it is located, for public safety reasons, within the boundaries of a publicly funded housing development owned and operated by the local housing authority; or (i) is a local street, otherwise eligible, containing one or more physical protuberances placed within the right-of-way for the

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59 purpose of controlling the speed of traffic.

60 However, the Commissioner of Highways may waive the requirements as to hard-surface pavement  
61 or right-of-way width for highways where the width modification is at the request of the governing body  
62 of the locality and is to protect the quality of the affected locality's drinking water supply or, for  
63 highways constructed on or after July 1, 1994, to accommodate some other special circumstance where  
64 such action would not compromise the health, safety, or welfare of the public. The modification is  
65 subject to such conditions as the Commissioner of Highways may prescribe.

66 For the purpose of calculating allocations and making payments under this section, the Department  
67 shall divide affected highways into two categories, which shall be distinct from but based on functional  
68 classifications established by the Federal Highway Administration: ~~(A)~~ (1) principal and minor arterial  
69 roads and ~~(B)~~ (2) collector roads and local streets. Payments made to affected localities shall be based  
70 on the number of moving-lane-miles of highways or portions thereof available to peak-hour traffic in  
71 that locality. Any *county* or city converting an existing moving-lane that qualifies for payments under  
72 this section to a transit-only lane after July 1, 2014, shall remain eligible for such payments but shall  
73 not receive additional funds as a result of such conversion.

74 The Department shall recommend to the Board an annual rate per category to be computed using the  
75 base rate of growth planned for the Department's Highway Maintenance and Operations program. The  
76 Board shall establish the annual rates of such payments as part of its allocation for such purpose, and  
77 the Department shall use those rates to calculate and put into effect annual changes in each qualifying  
78 *county's*, *city's*, or *town's* payment under this section.

79 The payments by the Department shall be paid in equal sums in each quarter of the fiscal year, and  
80 payments shall not exceed the allocation of the Board.

81 The chief administrative officer of the *county*, *city*, or *town* receiving these funds shall make annual  
82 categorical reports of expenditures to the Department, in such form as the Board shall prescribe,  
83 accounting for all expenditures, certifying that none of the money received has been expended for other  
84 than maintenance, construction, or reconstruction of the streets, and reporting on their performance as  
85 specified in subsection B of § 33.2-352. Such reports shall be included in the scope of the annual audit  
86 of each ~~municipality~~ *locality* conducted by independent certified public accountants.

87 **§ 58.1-3840. Certain excise taxes permitted.**

88 A. The provisions of Chapter 6 (§ 58.1-600 et seq.) to the contrary notwithstanding, any city or town  
89 ~~having general taxing powers established by charter pursuant to or consistent with the provisions of~~  
90 ~~§ 15.2-1104, and any county with a population density greater than 2,000 persons per square mile,~~ may  
91 impose excise taxes on cigarettes, admissions, transient room rentals, meals, and travel campgrounds. No  
92 such taxes on meals may be imposed on (i) that portion of the amount paid by the purchaser as a  
93 discretionary gratuity in addition to the sales price of the meal; (ii) that portion of the amount paid by  
94 the purchaser as a mandatory gratuity or service charge added by the restaurant in addition to the sales  
95 price of the meal, but only to the extent that such mandatory gratuity or service charge does not exceed  
96 20% of the sales price; or (iii) food and beverages sold through vending machines or on any tangible  
97 personal property purchased with food coupons issued by the United States Department of Agriculture  
98 under the Food Stamp Program or drafts issued through the Virginia Special Supplemental Food  
99 Program for Women, Infants, and Children. No such taxes on meals may be imposed when sold or  
100 provided by (a) restaurants, as such term is defined in subdivision 9 a of § 35.1-1, to their employees as  
101 part of their compensation when no charge is made to the employee; (b) volunteer fire departments and  
102 volunteer emergency medical services agencies; nonprofit churches or other religious bodies; or  
103 educational, charitable, fraternal, or benevolent organizations, the first three times per calendar year and,  
104 beginning with the fourth time, on the first \$100,000 of gross receipts per calendar year from sales of  
105 meals (excluding gross receipts from the first three times), as a fundraising activity, the gross proceeds  
106 of which are to be used by such church, religious body or organization exclusively for nonprofit  
107 educational, charitable, benevolent, or religious purposes; (c) churches that serve meals for their  
108 members as a regular part of their religious observances; (d) public or private elementary or secondary  
109 schools, or public or private colleges and universities, to their students or employees; (e) hospitals,  
110 medical clinics, convalescent homes, nursing homes, or other extended care facilities to patients or  
111 residents thereof; (f) day care centers; (g) homes for the aged, infirm, handicapped, battered women,  
112 narcotic addicts, or alcoholics; or (h) age-restricted apartment complexes or residences with restaurants,  
113 not open to the public, where meals are served and fees are charged for such food and beverages and  
114 are included in rental fees.

115 Also, the tax shall not be levied on meals: (a) when used or consumed and paid for by the  
116 Commonwealth, any political subdivision of the Commonwealth, or the United States; ~~or~~ (b) provided  
117 by a public or private nonprofit charitable organization or establishment to elderly, infirm, blind,  
118 handicapped, or needy persons in their homes; or at central locations; or (c) provided by private  
119 establishments that contract with the appropriate agency of the Commonwealth to offer food, food  
120 products, or beverages for immediate consumption at concession prices to elderly, infirm, blind,

121 handicapped, or needy persons in their homes or at central locations.

122 In addition, as set forth in § 51.5-98, no blind person operating a vending stand or other business  
123 enterprise under the jurisdiction of the Department for the Blind and Vision Impaired and located on  
124 property acquired and used by the United States for any military or naval purpose shall be required to  
125 collect and remit meals taxes.

126 B. Notwithstanding any other provision of this section, no *county*, city, or town shall levy any tax  
127 under this section upon alcoholic beverages sold in factory sealed containers and purchased for  
128 off-premises consumption or food purchased for human consumption as "food" is defined in the Food  
129 Stamp Act of 1977, 7 U.S.C. § 2012, as amended, and federal regulations adopted pursuant to that act,  
130 except for the following items: sandwiches, salad bar items sold from a salad bar, prepackaged  
131 single-serving salads consisting primarily of an assortment of vegetables, and nonfactory sealed  
132 beverages.

133 C. Any *county*, city, or town that is authorized to levy a tax on admissions may levy the tax on  
134 admissions paid for any event held at facilities that are not owned by the *county*, city, or town at a  
135 lower rate than the rate levied on admissions paid for any event held at its ~~city~~ *county-owned*,  
136 *city-owned*, or town-owned civic centers, stadiums, and amphitheatres.

137 D. [Expired.]