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HOUSE BILL NO. 1634**AMENDMENT IN THE NATURE OF A SUBSTITUTE**(Proposed by the House Committee on Finance
on February 1, 2019)

(Patron Prior to Substitute—Delegate Edmunds)

A BILL to amend and reenact § 58.1-605, as it is currently effective and as it may become effective, of the Code of Virginia, and to amend the Code of Virginia by adding sections numbered 58.1-605.1 and 58.1-606.1, relating to an additional local sales and use tax in Halifax County; appropriations of Halifax County to incorporated towns for educational purposes.

Be it enacted by the General Assembly of Virginia:

1. That § 58.1-605, as it is currently effective and as it may become effective, of the Code of Virginia is amended and reenacted and that the Code of Virginia is amended by adding sections numbered 58.1-605.1 and 58.1-606.1 as follows:

§ 58.1-605. (Contingent expiration date) To what extent and under what conditions cities and counties may levy local sales taxes; collection thereof by Commonwealth and return of revenue to each city or county entitled thereto.

A. No county, city or town shall impose any local general sales or use tax or any local general retail sales or use tax except as authorized by this section *or* § 58.1-605.1.

B. The council of any city and the governing body of any county may levy a general retail sales tax at the rate of one percent to provide revenue for the general fund of such city or county. Such tax shall be added to the rate of the state sales tax imposed by §§ 58.1-603 and 58.1-604 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 on a local sales tax.

C. The council of any city and the governing body of any county desiring to impose a local sales tax under this section may do so by the adoption of an ordinance stating its purpose and referring to this section, and providing that such ordinance shall be effective on the first day of a month at least 60 days after its adoption. A certified copy of such ordinance shall be forwarded to the Tax Commissioner so that it will be received within five days after its adoption.

D. Any local sales tax levied under this section 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.

E. All local sales tax moneys collected by the Tax Commissioner under this section shall be paid into the state treasury to the credit of a special fund which is hereby created on the Comptroller's books under the name "Collections of Local Sales Taxes." Such local sales tax moneys shall be credited to the account of each particular city or county levying a local sales tax under this section. The basis of such credit shall be the city or county in which the sales were made as shown by the records of the Department and certified by it monthly to the Comptroller, namely, the city or county of location of each place of business of every dealer paying the tax to the Commonwealth without regard to the city or county of possible use by the purchasers. If a dealer has any place of business located in more than one political subdivision by reason of the boundary line or lines passing through such place of business, the amount of sales tax paid by such a dealer with respect to such place of business shall be treated for the purposes of this section as follows: one-half shall be assignable to each political subdivision where two are involved, one-third where three are involved, and one-fourth where four are involved.

F. As soon as practicable after the local sales tax moneys have been paid into the state treasury in any month for the preceding month, the Comptroller shall draw his warrant on the Treasurer of Virginia in the proper amount in favor of each city or county entitled to the monthly return of its local sales tax moneys, and such payments shall be charged to the account of each such city or county under the special fund created by this section. If errors are made in any such payment, or adjustments are otherwise necessary, whether attributable to refunds to taxpayers, or to some other fact, the errors shall be corrected and adjustments made in the payments for the next two months as follows: one-half of the total adjustment shall be included in the payments for the next two months. In addition, the payment shall include a refund of amounts erroneously not paid to the city or county and not previously refunded during the three years preceding the discovery of the error. A correction and adjustment in payments described in this subsection due to the misallocation of funds by the dealer shall be made within three years of the date of the payment error.

G. Such payments to counties are subject to the qualification that in any county wherein is situated any incorporated town constituting a special school district and operated as a separate school district under a town school board of three members appointed by the town council, the county treasurer shall pay into the town treasury for general governmental purposes the proper proportionate amount received by him in the ratio that the school age population of such town bears to the school age population of

60 the entire county. If the school age population of any town constituting a separate school district is
61 increased by the annexation of territory since the last estimate of school age population provided by the
62 Weldon Cooper Center for Public Service, such increase shall, for the purposes of this section, be added
63 to the school age population of such town as shown by the last such estimate and a proper reduction
64 made in the school age population of the county or counties from which the annexed territory was
65 acquired.

66 H. One-half of such payments to counties are subject to the further qualification, other than as set
67 out in subsection G above, that in any county wherein is situated any incorporated town not constituting
68 a separate special school district ~~which~~ *that* has complied with its charter provisions providing for the
69 election of its council and mayor for a period of at least four years immediately prior to the adoption of
70 the sales tax ordinance, the county treasurer shall pay into the town treasury of each such town for
71 general governmental purposes the proper proportionate amount received by him in the ratio that the
72 school age population of each such town bears to the school age population of the entire county, based
73 on the latest estimate provided by the Weldon Cooper Center for Public Service. The preceding
74 requirement pertaining to the time interval between compliance with election provisions and adoption of
75 the sales tax ordinance shall not apply to a tier-city. If the school age population of any such town not
76 constituting a separate special school district is increased by the annexation of territory or otherwise
77 since the last estimate of school age population provided by the Weldon Cooper Center for Public
78 Service, such increase shall, for the purposes of this section, be added to the school age population of
79 such town as shown by the last such estimate and a proper reduction made in the school age population
80 of the county or counties from which the annexed territory was acquired.

81 I. Notwithstanding the provisions of subsection H, the board of supervisors of a county may, in its
82 discretion, appropriate funds to any incorporated town not constituting a separate school district within
83 such county ~~which~~ *that* has not complied with the provisions of its charter relating to the elections of its
84 council and mayor, an amount not to exceed the amount it would have received from the tax imposed
85 by this chapter if such election had been held; *however, Halifax County may appropriate any amount to*
86 *any such incorporated town.*

87 J. It is further provided that if any incorporated town which would otherwise be eligible to receive
88 funds from the county treasurer under subsection G or H ~~of this section~~ be located in a county ~~which~~
89 *that* does not levy a general retail sales tax under the provisions of this law, such town may levy a
90 general retail sales tax at the rate of one percent to provide revenue for the general fund of the town,
91 subject to all the provisions of this section generally applicable to cities and counties. Any tax levied
92 under the authority of this subsection shall in no case continue to be levied on or after the effective date
93 of a county ordinance imposing a general retail sales tax in the county within which such town is
94 located.

95 **§ 58.1-605. (Contingent effective date) To what extent and under what conditions cities and**
96 **counties may levy local sales taxes; collection thereof by Commonwealth and return of revenue to**
97 **each city or county entitled thereto.**

98 A. No county, city or town shall impose any local general sales or use tax or any local general retail
99 sales or use tax except as authorized by this section *or § 58.1-605.1.*

100 B. The council of any city and the governing body of any county may levy a general retail sales tax
101 at the rate of one percent to provide revenue for the general fund of such city or county. Such tax shall
102 be added to the rate of the state sales tax imposed by §§ 58.1-603 and 58.1-604 and shall be subject to
103 all the provisions of this chapter and the rules and regulations published with respect thereto. No
104 discount under § 58.1-622 shall be allowed on a local sales tax.

105 C. The council of any city and the governing body of any county desiring to impose a local sales tax
106 under this section may do so by the adoption of an ordinance stating its purpose and referring to this
107 section, and providing that such ordinance shall be effective on the first day of a month at least 60 days
108 after its adoption. A certified copy of such ordinance shall be forwarded to the Tax Commissioner so
109 that it will be received within five days after its adoption.

110 D. Prior to any change in the rate of the local sales and use tax, the Tax Commissioner shall provide
111 remote sellers and single and consolidated providers with at least 30 days' notice. Any change in the rate
112 of local sales and use tax shall only become effective on the first day of a calendar quarter. Failure to
113 provide notice pursuant to this section shall require the Commonwealth and the locality to hold the
114 remote seller or single or consolidated provider harmless for collecting the tax at the immediately
115 preceding effective rate for any period of time prior to 30 days after notification is provided.

116 E. Any local sales tax levied under this section shall be administered and collected by the Tax
117 Commissioner in the same manner and subject to the same penalties as provided for the state sales tax.

118 F. All local sales tax moneys collected by the Tax Commissioner under this section shall be paid
119 into the state treasury to the credit of a special fund which is hereby created on the Comptroller's books
120 under the name "Collections of Local Sales Taxes." Such local sales tax moneys shall be credited to the
121 account of each particular city or county levying a local sales tax under this section. The basis of such

credit shall be the city or county in which the sales were made as shown by the records of the Department and certified by it monthly to the Comptroller, namely, the city or county of location of each place of business of every dealer paying the tax to the Commonwealth without regard to the city or county of possible use by the purchasers. If a dealer has any place of business located in more than one political subdivision by reason of the boundary line or lines passing through such place of business, the amount of sales tax paid by such a dealer with respect to such place of business shall be treated for the purposes of this section as follows: one-half shall be assignable to each political subdivision where two are involved, one-third where three are involved, and one-fourth where four are involved.

G. As soon as practicable after the local sales tax moneys have been paid into the state treasury in any month for the preceding month, the Comptroller shall draw his warrant on the Treasurer of Virginia in the proper amount in favor of each city or county entitled to the monthly return of its local sales tax moneys, and such payments shall be charged to the account of each such city or county under the special fund created by this section. If errors are made in any such payment, or adjustments are otherwise necessary, whether attributable to refunds to taxpayers, or to some other fact, the errors shall be corrected and adjustments made in the payments for the next two months as follows: one-half of the total adjustment shall be included in the payments for the next two months. In addition, the payment shall include a refund of amounts erroneously not paid to the city or county and not previously refunded during the three years preceding the discovery of the error. A correction and adjustment in payments described in this subsection due to the misallocation of funds by the dealer shall be made within three years of the date of the payment error.

H. Such payments to counties are subject to the qualification that in any county wherein is situated any incorporated town constituting a special school district and operated as a separate school district under a town school board of three members appointed by the town council, the county treasurer shall pay into the town treasury for general governmental purposes the proper proportionate amount received by him in the ratio that the school age population of such town bears to the school age population of the entire county. If the school age population of any town constituting a separate school district is increased by the annexation of territory since the last estimate of school age population provided by the Weldon Cooper Center for Public Service, such increase shall, for the purposes of this section, be added to the school age population of such town as shown by the last such estimate and a proper reduction made in the school age population of the county or counties from which the annexed territory was acquired.

I. One-half of such payments to counties are subject to the further qualification, other than as set out in subsection H, that in any county wherein is situated any incorporated town not constituting a separate special school district ~~which~~ *that* has complied with its charter provisions providing for the election of its council and mayor for a period of at least four years immediately prior to the adoption of the sales tax ordinance, the county treasurer shall pay into the town treasury of each such town for general governmental purposes the proper proportionate amount received by him in the ratio that the school age population of each such town bears to the school age population of the entire county, based on the latest estimate provided by the Weldon Cooper Center for Public Service. The preceding requirement pertaining to the time interval between compliance with election provisions and adoption of the sales tax ordinance shall not apply to a tier-city. If the school age population of any such town not constituting a separate special school district is increased by the annexation of territory or otherwise since the last estimate of school age population provided by the Weldon Cooper Center for Public Service, such increase shall, for the purposes of this section, be added to the school age population of such town as shown by the last such estimate and a proper reduction made in the school age population of the county or counties from which the annexed territory was acquired.

J. Notwithstanding the provisions of subsection I, the board of supervisors of a county may, in its discretion, appropriate funds to any incorporated town not constituting a separate school district within such county ~~which~~ *that* has not complied with the provisions of its charter relating to the elections of its council and mayor, an amount not to exceed the amount it would have received from the tax imposed by this chapter if such election had been held; *however, Halifax County may appropriate any amount to any such incorporated town.*

K. It is further provided that if any incorporated town which would otherwise be eligible to receive funds from the county treasurer under subsection H or I be located in a county ~~which~~ *that* does not levy a general retail sales tax under the provisions of this law, such town may levy a general retail sales tax at the rate of one percent to provide revenue for the general fund of the town, subject to all the provisions of this section generally applicable to cities and counties. Any tax levied under the authority of this subsection shall in no case continue to be levied on or after the effective date of a county ordinance imposing a general retail sales tax in the county within which such town is located.

§ 58.1-605.1. Additional local sales tax in Halifax County; use of revenues for construction or renovation of schools.

183 A. 1. In addition to the sales tax authorized under § 58.1-605, Halifax County may levy a general
184 retail sales tax at a rate not to exceed two percent as determined by its governing body to provide
185 revenue solely for capital projects for the construction or renovation of schools in Halifax County. Such
186 tax shall be added to the rates of the state and local sales tax imposed by this chapter and shall be
187 subject to all the provisions of this chapter and the rules and regulations published with respect thereto.
188 No discount under § 58.1-622 shall be allowed on this local sales tax.

189
190 2. Any tax imposed pursuant to this section shall expire (i) if the capital projects for the construction
191 or renovation of schools are to be financed by bonds or loans, on the date by which such bonds or
192 loans shall be repaid or (ii) if the capital projects for the construction or renovation of schools are not
193 to be financed by bonds or loans, on a date chosen by the governing body and specified in any
194 resolution passed pursuant to the provisions of subdivision B 1. Such expiration date shall not be more
195 than 20 years after the date of the resolution passed pursuant to the provisions of subdivision B 1.

196 B. 1. This tax may be levied only if the tax is approved in a referendum within Halifax County held
197 in accordance with § 24.2-684 and initiated by a resolution of the local governing body. Such resolution
198 shall state (i) if the capital projects for the construction or renovation of schools are to be financed by
199 bonds or loans, the date by which such bonds or loans shall be repaid or (ii) if the capital projects for
200 the construction or renovation of schools are not to be financed by bonds or loans, a specified date on
201 which the sales tax shall expire.

202 2. The clerk of the circuit court shall publish notice of the referendum in a newspaper of general
203 circulation in Halifax County once a week for three consecutive weeks prior to the election. The
204 question on the ballot for the referendum shall include language stating (i) that the revenues from the
205 sales tax shall be used solely for capital projects for the construction or renovation of schools and (ii)
206 the date on which the sales tax shall expire.

207 C. The governing body of Halifax County, if it elects to impose a local sales tax under this section
208 after approval at a referendum as provided in subsection B shall do so by the adoption of an ordinance
209 stating its purpose and referring to this section and providing that such ordinance shall be effective on
210 the first day of a month at least 120 days after its adoption. Such ordinance shall state the date on
211 which the sales tax shall expire. A certified copy of such ordinance shall be forwarded to the Tax
212 Commissioner so that it will be received within five days after its adoption.

213 D. Any local sales tax levied under this section shall be administered and collected by the Tax
214 Commissioner in the same manner and subject to the same exemptions and penalties as provided for the
215 state sales tax; however, the local sales tax levied under this section shall not be levied on food
216 purchased for human consumption, as defined in § 58.1-611.1.

217 E. All local sales tax moneys collected by the Tax Commissioner under this section shall be paid into
218 the state treasury to the credit of a special fund that is hereby created on the Comptroller's books under
219 the name "Collections of Additional Local Sales Taxes in Halifax County." The fund shall be
220 administered as provided in § 58.1-605.

221 F. As soon as practicable after the local sales tax moneys have been paid into the state treasury in
222 any month for the preceding month, the Comptroller shall draw his warrant on the State Treasurer in
223 the proper amount in favor of Halifax County, and such payments shall be charged to the account of
224 Halifax County under the special fund created by this section. If errors are made in any such payment,
225 or adjustments are otherwise necessary, whether attributable to refunds to taxpayers or to some other
226 fact, the errors shall be corrected and adjustments made in the payments for the next two months as
227 follows: one-half of the total adjustment shall be included in the payment for each of the next two
228 months. In addition, the payment shall include a refund of amounts erroneously not paid to Halifax
229 County and not previously refunded during the three years preceding the discovery of the error. A
230 correction and adjustment in payments described in this subsection due to the misallocation of funds by
231 the dealer shall be made within three years of the date of the payment error.

232 G. The revenues from this tax shall be used solely for capital projects for new construction or major
233 renovation of schools in Halifax County, including bond and loan financing costs related to such
234 construction or renovation.

235 **§ 58.1-606.1. Additional local use tax in Halifax County; use of revenues for construction or**
236 **renovation of schools.**

237 A. 1. The governing body of Halifax County may levy a use tax at the rate of such sales tax under
238 § 58.1-605.1 to provide revenue for capital projects for the construction or renovation of schools in
239 Halifax County. Such tax shall be added to the rates of the state and local use tax imposed by this
240 chapter and shall be subject to all the provisions of this chapter, and all amendments thereof, and the
241 rules and regulations published with respect thereto, except that no discount under § 58.1-622 shall be
242 allowed on a local use tax.

243 2. Any tax imposed pursuant to this section shall expire (i) if the capital projects for the construction
244 or renovation of schools are to be financed by bonds or loans, on the date by which such bonds or

loans shall be repaid or (ii) if the capital projects for the construction or renovation of schools are not to be financed by bonds or loans, on a date chosen by the governing body and specified in any resolution passed pursuant to the provisions of subsection B. Such expiration date shall not be more than 20 years after the date of the resolution passed pursuant to the provisions of subsection B.

B. The governing body of Halifax County, if it elects to impose a local use tax under this section may do so only if it has previously imposed the local sales tax authorized by § 58.1-605.1, by the adoption of an ordinance stating its purpose and referring to this section and providing that the local use tax shall become effective on the first day of a month at least 120 days after its adoption. Such ordinance shall state the date on which the use tax shall expire. A certified copy of such ordinance shall be forwarded to the Tax Commissioner so that it will be received within five days after its adoption.

C. Any local use tax levied under this section shall be administered and collected by the Tax Commissioner in the same manner and subject to the same exemptions and penalties as provided for the state use tax; however, the local sales tax levied under this section shall not be levied on food purchased for human consumption, as defined in § 58.1-611.1.

D. The local use tax authorized by this section shall not apply to transactions to which the sales tax applies, the situs of which for state and local sales tax purposes is the locality of location of each place of business of every dealer paying the tax to the Commonwealth without regard to the locality of possible use by the purchasers. However, the local use tax authorized by this section shall apply to tangible personal property purchased outside the Commonwealth for use or consumption within the locality imposing the local use tax, or stored within the locality for use or consumption, where the property would have been subject to the sales tax if it had been purchased within the Commonwealth. The local use tax shall also apply to leases or rentals of tangible personal property where the place of business of the lessor is outside the Commonwealth and such leases or rentals are subject to the state tax. Moreover, the local use tax shall apply in all cases in which the state use tax applies.

E. Out-of-state dealers who hold certificates of registration to collect the use tax from their customers for remittance to the Commonwealth shall, to the extent reasonably practicable, in filing their monthly use tax returns with the Tax Commissioner, break down their shipments into the Commonwealth by counties and cities so as to show the county or city of destination. If, however, the out-of-state dealer is unable accurately to assign any shipment to a particular county or city, the local use tax on the tangible personal property involved shall be remitted to the Commonwealth by such dealer without attempting to assign the shipment to any county or city.

F. Local use tax revenue shall be deposited in the special fund established pursuant to subsection E of § 58.1-605.1. The Comptroller shall distribute the revenue to Halifax County.

G. All revenue from this local use tax revenue shall be used solely for capital projects for new construction or major renovation of schools in Halifax County, including bond and loan financing costs related to such construction or renovation.