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SENATE BILL NO. 1098

Offered January 20, 1997

A *BILL to amend and reenact §§ 58.1-540 and 58.1-548 of the Code of Virginia and to repeal § 58.1-549 of the Code of Virginia, relating to the local income tax.*

Patron—Waddell

Referred to the Committee on Finance

Be it enacted by the General Assembly of Virginia:**1. That §§ 58.1-540 and 58.1-548 of the Code of Virginia are amended and reenacted as follows:**

§ 58.1-540. Levy of the tax.

A. Any county having a population of more than 500,000, as determined by the 1980 U. S. Census, any county or city adjacent thereto, and any city contiguous to such an adjacent county or city, or any city with a population of at least 265,000, is hereby authorized to levy a local income tax at any increment of one-quarter percent up to a maximum rate of one percent upon the Virginia taxable income as determined in § 58.1-322 for an individual, § 58.1-361 for a fiduciary of an estate or trust, or § 58.1-402 for a corporation, for each taxable year of every resident of such county or city or corporation having income from sources within such county or city, subject to the limitations of subsection B of this section. The same rate shall apply to individuals, fiduciaries and corporations.

B. The authority to levy a local income tax as provided in subsection A may be exercised by a county or city governing body only if approved in a referendum within the county or city. The referendum shall be held in accordance with § ~~24.1-165~~ 24.2-684. The referendum may be initiated either by a resolution of the governing body of the county or city or on the filing of a petition signed by a number of registered voters of the county or city equal in number to ten percent of the number of voters registered in the county or city on January 1 of the year in which the petition is filed with the circuit court of such county or city. The clerk of the circuit court shall publish notice of the election in a newspaper of general circulation in the county or city once a week for three consecutive weeks prior to the election. The ballot used shall be printed to read as follows:

"Shall the governing body of (...name of county or city...) have the authority to levy a local income tax of up to one percent ~~for transportation purposes~~ in accordance with § 58.1-540 of the Code of Virginia?

☐ Yes☐ No"

If the voters by a majority vote approve the authority of the local governing body to levy a local income tax, the tax may be imposed by the adoption of an ordinance by the governing body of the county or city in accordance with general or special law, and the tax may be thereafter enacted, modified or repealed as any other tax the governing body is empowered to levy subject only to the limitations herein. No ordinance levying a local income tax shall be repealed unless and until all debts or other obligations of the county or city to which such revenues are pledged or otherwise committed have been paid or provision made for payment.

§ 58.1-548. Disposition of revenues; costs of administration.

A. All local income tax revenues collected by the Tax Commissioner pursuant to this article shall be paid into the General Fund of the state treasury.

B. Such revenues shall be transferred monthly by the Comptroller to a special fund entitled "Collections of Local Income Taxes," upon certification of such amounts by the Tax Commissioner.

C. As soon as practicable after the last day of each calendar quarter, the Comptroller shall pay over and distribute to each county and city the local income tax revenues to be estimated by the Tax Commissioner. The Tax Commissioner shall reconcile such estimates during the month following the close of the fiscal year for those returns on file for the preceding taxable year.

D. The direct costs of state administration of the local income tax as certified to the Comptroller by the Department of Taxation shall be deducted on a prorated basis from the distributions to each county and city under subsection C of this section. In determining each county's or city's prorated share of administrative costs, the Comptroller shall apportion the total administrative costs in the ratio which the revenues of each county or city bear to the total local income tax revenues distributed. The direct costs for local administration of the local income tax shall be paid entirely from the local revenues of the county or city.

E. All revenues distributed to a county or city under subsection C of this section shall be ~~applied and expended for transportation purposes, including, without limitation, construction, administration,~~

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60 operation, improvement, maintenance and financing of transportation facilities *paid into the general fund*
61 *of such city or county.*

62 As used in this section, the term "transportation facilities" shall include all transportation related
63 facilities including, but not limited to, all highway systems, public transportation or mass transit systems
64 as defined in § 33.1-12, airports as defined in § 5.1-1, and port facilities as defined in § 62.1-140. Such
65 term shall be liberally construed for purposes of this section.

66 Any county or city that levies a local income tax under this article shall not reduce the total amount
67 of its annual general fund appropriations, exclusive of the revenues derived from the tax levied under
68 this article, for transportation purposes below the total amount appropriated for those purposes in the
69 fiscal year preceding the adoption of the ordinance levying the tax.

70 Revenues derived by a county or city from the local income tax levied under this article shall be in
71 addition to those allocated to the county or city from state transportation funds, which allocations shall
72 not be reduced as a result of any revenues received hereunder.

73 F. If any revenues distributed to a county or city under subsection C of this section are applied or
74 expended for any transportation facilities under the control and jurisdiction of any state agency, board,
75 commission or authority, such transportation facilities shall be constructed, operated, administered,
76 improved and maintained in accordance with laws, rules, regulations, policies and procedures governing
77 said state agency, board, commission or authority; provided, however, that in the event these revenues,
78 or a portion thereof, are expended for improving or constructing highways in a county which is subject
79 to the provisions of § 33.1-75.3, such expenditures shall be undertaken in the manner prescribed in that
80 statute.

81 **2. That § 58.1-549 of the Code of Virginia is repealed.**