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HOUSE BILL NO. 2372

Offered January 21, 1999

A BILL to amend and reenact §§ 15.2-204, 15.2-1200, 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 local government taxing authority; Virginia Omnibus Local Government Financing Act of 1999.

Patron—Hull

Referred to Committee on Counties, Cities and Towns

Be it enacted by the General Assembly of Virginia:

1. That §§ 15.2-204, 15.2-1200, 58.1-540 and 58.1-548 of the Code of Virginia are amended and reenacted as follows:

§ 15.2-204. Uniform charter powers.

Cities and towns 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 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.

§ 15.2-1200. General powers of counties.

A. Any county may adopt such measures as it deems expedient to secure and promote the health, safety and general welfare of its inhabitants which are not inconsistent with the general laws of the Commonwealth. Such power shall include, but shall not be limited to, the adoption of quarantine regulations affecting both persons and animals, the adoption of necessary regulations to prevent the spread of contagious diseases among persons or animals and the adoption of regulations for the prevention of the pollution of water which is dangerous to the health or lives of persons residing in the county.

B. Notwithstanding any contrary provision of law, counties shall have all the powers of taxation granted to municipalities in § 15.2-1104

§ 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, locality to which §§ 15.2-2298 or 15.2-2303 is applicable is hereby authorized to levy a local income tax at any increment of one-quarter percent up to a maximum rate of one percent in addition to the state income tax rate 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 § 24.2-684. 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

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60 have been paid or provision made for payment.

61 *C. In the first full fiscal year in which the tax is levied, the governing body of each county or city in*
62 *which such tax is levied shall reduce the rate of its real estate tax or tangible personal property tax in*
63 *an amount that will reduce real estate tax revenues or the tangible personal property tax revenues in*
64 *the following year by an amount equal to the amount of local income tax revenues collected during the*
65 *first year.*

66 § 58.1-548. Disposition of revenues; costs of administration.

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

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

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

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

82 E. All revenues distributed to a county or city under subsection C of this section shall be *either (i)*
83 *applied and expended for transportation purposes, including, without limitation, construction,*
84 *administration, operation, improvement, maintenance and financing of transportation facilities, or (ii)*
85 *transferred to the school board of the locality for educational purposes.*

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

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

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

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

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