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SENATE BILL NO. 571

Offered January 26, 1998

A *BILL to amend and reenact §§ 58.1-3010, 58.1-3011, 58.1-3109, and 58.1-3506 of the Code of Virginia and to amend the Code of Virginia by adding sections numbered 2.1-167.1, 2.1-399.2, and 58.1-3005.1, relating to classifications of tangible personal property; the rate of tangible personal property tax on certain motor vehicles; and appropriations by the Commonwealth to counties, cities, and towns.*

Patrons—Saslaw, Colgan, Couric, Howell and Lucas

Referred to the Committee on Finance

Be it enacted by the General Assembly of Virginia:

1. That §§ 58.1-3010, 58.1-3011, 58.1-3109, and 58.1-3506 of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding sections numbered 2.1-167.1, 2.1-399.2, and 58.1-3005.1, as follows:

§ 2.1-167.1. Calculation of reimbursable tangible personal property tax revenue amounts.

A. As used in this section:

"Base rate" means the effective rate of the tangible personal property tax in effect in a county, city or town on January 1, 1998.

"Effective rate" means the nominal rate of the tangible personal property tax levied on the general class of tangible personal property multiplied by the assessment ratio.

"Foregone revenue amount" means, for each passenger vehicle, the product obtained by multiplying the base rate by:

1. From January 1, 1999, through December 31, 1999, twenty-five percent of the passenger vehicle's value that does not exceed the index value amount;

2. From January 1, 2000, through December 31, 2000, fifty percent of the passenger vehicle's value that does not exceed the index value amount;

3. From January 1, 2001, through December 31, 2001, seventy-five percent of the passenger vehicle's value that does not exceed the index value amount; and

4. After January 1, 2002, the passenger vehicle's value that does not exceed the index value amount.

"Inflation factor" means the percentage change in the United States Average Consumer Price Index for all items, all urban consumers (CPI-U), as published by the Bureau of Labor Statistics of the United States Department of Labor.

"Passenger vehicle" means the class of tangible personal property described in subdivision A 27 of § 58.1-3506.

"Reimbursable tangible personal property tax revenue" means the total of the foregone revenue amounts for all passenger vehicles.

"Value" means the fair market value of a passenger vehicle as determined by the commissioner of revenue, director of finance or other assessing officer utilizing the same method of valuation authorized pursuant to subdivision A 3 of § 58.1-3503 in use in the locality on January 1, 1998.

B. From January 1, 1999, through December 31, 1999, the index value amount for each passenger vehicle is \$20,000. For calendar years commencing on and after January 1, 2000, the index value amount for each passenger vehicle is the total of (i) the index value amount for a passenger vehicle for the preceding calendar year and (ii) the product obtained by multiplying the index value amount for a passenger vehicle for the preceding calendar year by the inflation index for the preceding period July 1 through June 30.

C. By December 1 of 1998 and each year thereafter, the Auditor of Public Accounts shall provide to the Governor and the presiding officer of each house of the General Assembly an estimate of the reimbursable tangible personal property tax revenue for each county, city, and town for each of the following two calendar years.

D. Calculations of estimated reimbursable tangible personal property tax revenue shall be prepared as follows:

1. All passenger vehicles garaged or parked within the locality on its tax day shall be assumed to be subject to taxation at the base rate;

2. The estimates shall be prepared based on information contained in the reports provided by the commissioner of revenue, director of finance or other assessing officer for the locality pursuant to subdivision 9 of § 58.1-3109 regarding the number and value of passenger vehicles garaged or parked within the locality on the preceding tax day;

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60 3. With respect to the estimate of reimbursable tangible personal property tax revenue for the first
61 following calendar year, the index value amount for passenger vehicles for the following calendar year
62 is determined pursuant to subsection E;

63 4. With respect to the estimate of reimbursable tangible personal property tax revenue for the second
64 following calendar year, the index value amount for passenger vehicles shall be assumed to be three
65 percent greater than the index value amount used in preparing the estimate for the first following
66 calendar year;

67 5. The estimates of reimbursable tangible personal property tax revenue shall not account for the
68 prorating of tangible personal property tax among localities pursuant to § 58.1-3516; and

69 6. The number and value of passenger vehicles garaged or parked within the locality shall be
70 assumed to change over the following two years at the average rate of change over the preceding three
71 calendar years.

72 E. The Auditor of Public Accounts shall, by August 1 of 1999 and subsequent years, (i) determine
73 the index value amount for the following calendar year and (ii) notify in writing the commissioner of
74 revenue, director of finance, or other assessing officer of each county, city, and town and the presiding
75 officer of each house of the General Assembly of the index value amount for the succeeding calendar
76 year.

77 F. The estimate of a locality's reimbursable tangible personal property tax revenue shall be adjusted
78 to reflect the average, over the preceding three years, of the percentage of the locality's tangible
79 personal property tax assessments that are collected by the locality within one year after the tax is
80 levied, based on information provided by the commissioner of revenue, director of finance or other
81 assessing officer for the locality.

82 G. The Auditor of Public Accounts shall provide to each commissioner of revenue, director of
83 finance or other assessing officer the form to be used in preparing the reports pursuant to subdivision 9
84 of § 58.1-3109 required for the calculation of the estimated reimbursable tangible personal property tax
85 revenue and other information required by this section.

86 H. Any locality which did not assess and collect tangible personal property tax on passenger vehicles
87 for its fiscal year that included December 31, 1997, shall not have reimbursable tangible personal
88 property tax revenue.

89 § 2.1-399.2. Tangible personal property tax reimbursement payments.

90 A. The Governor's proposed amendments to the general appropriation act for the second year of the
91 1998-2000 biennium, submitted pursuant to subsection B of § 2.1-399, shall include an appropriation to
92 each county, city and town of the amount of the locality's reimbursable tangible personal property tax
93 revenue for 1999, as estimated for such locality by the Auditor of Public Accounts pursuant to
94 § 2.1-167.1.

95 B. Each biennial budget bill submitted by the Governor pursuant to subsection A of § 2.1-399 shall
96 include an appropriation to each county, city and town of the amount of the locality's reimbursable
97 tangible personal property tax revenue for the two calendar years in which each fiscal year of the
98 biennium commences, as estimated for such locality by the Auditor of Public Accounts pursuant to
99 § 2.1-167.1.

100 C. Commencing with amendments proposed to the general appropriation act adopted by the 2000
101 Session of the General Assembly, the Governor shall submit, with any gubernatorial amendments
102 proposed to the general appropriation act adopted in the immediately preceding even-numbered year
103 session pursuant to subsection B of § 2.1-399, amendments to the appropriations to each county, city
104 and town as provided in subsection B as shall be necessary to provide that the appropriations to
105 localities during the remainder of the biennium are equal to the revised estimates of the amounts of
106 reimbursable tangible personal property tax revenue for each locality, as estimated for such locality by
107 the Auditor of Public Accounts pursuant to § 2.1-167.1.

108 D. The general appropriation act shall provide that the amount appropriated to each county, city
109 and town under this section shall be paid to the locality by the State Treasurer in one or more
110 installments during the calendar year for which such amount is appropriated, on such date or dates as
111 shall be provided in the general appropriation act.

112 E. This section shall not require the appropriation of funds to any locality which did not assess and
113 collect tangible personal property tax on passenger vehicles, as defined in § 2.1-167.1, for the fiscal
114 year that included December 31, 1997.

115 § 58.1-3005.1. Maximum rate of tangible personal property tax on certain tangible personal
116 property.

117 A. For all years commencing on and after January 1, 1999, the governing body of any county, city
118 or town shall fix the effective rate of the tangible personal property tax levied in the locality on
119 passenger vehicles at a level that is expected to generate an amount of revenue equal to the difference
120 between (i) the revenue that would be generated from the levy of the tangible personal property tax on
121 passenger vehicles at the base rate and (ii) the amount that is proposed to be appropriated to the

locality for such year as set forth in § 2.1-399.2.

B. As used in this section:

"Base rate" means the effective rate of the tangible personal property tax in effect on January 1, 1998.

"Effective rate" means the nominal rate of the tangible personal property tax levied on the general class of tangible personal property multiplied by the assessment ratio.

"Passenger vehicle" means the class of tangible personal property described in subdivision A 27 of § 58.1-3506.

C. Following the fixing of the rate of the tangible personal property pursuant to this section, the governing body of the locality shall not thereafter increase the rate of such tax on such classification of tangible personal property during such year.

§ 58.1-3010. Counties, cities and towns may levy taxes on fiscal year basis of July 1 through June 30, and change rate of levy during fiscal year.

Notwithstanding any other provision of law, special or general, to the contrary, the governing body of any county, city or town may by ordinance provide that taxes on real estate, ~~tangible personal property~~ and machinery and tools be levied and imposed on a fiscal year basis of July 1 to June 30. Such locality is authorized and empowered to change the rate of any such levy during any fiscal year.

As to any locality which has adopted such ordinance all provisions of this Code specifying a date or month relative to the levy, payment or collection of such taxes shall be interpreted to specify the corresponding date or month of the fiscal year, except that all property shall be assessed as of January 1 prior to such fiscal year unless otherwise specifically provided under § 58.1-3011.

In order to effect a change to a fiscal tax year pursuant to this section, any locality may have a short calendar year from January 1 through June 30, or a short fiscal year from January 1 through June 30. All provisions of law applicable to the assessment of property, levy, payment and collection of taxes for a calendar year shall apply to such short tax year. If such short year is a fiscal year, the locality may borrow beginning January 1 pursuant to §§ 15.1-227.30 and 15.1-227.32 as if it had been on such fiscal year from the prior July 1. If such short year is a calendar year, borrowing pursuant to §§ 15.1-227.30 and 15.1-227.32 must be repaid at the time specified in § 15.1-227.32 for fiscal year borrowings.

~~Any locality which levies taxes on a fiscal year basis, as authorized by general law or special act, shall exonerate or refund its personal property tax for that portion of the tax year for which the property was properly assessed by another jurisdiction in the Commonwealth and the tax paid.~~

§ 58.1-3011. Use of July 1 as effective date of assessment.

The governing body of any county, city or town may provide by ordinance that all taxable real estate or ~~personal property~~ and machinery and tools therein be assessed as of July 1 of each year, any other provision of law, general and special, including the provisions of the charter of any city or town, to the contrary notwithstanding. In any such locality, public service corporation property shall continue to be assessed at its value as of January 1, prior to such assessment date. ~~Any ordinance adopting a July 1 tax day for personal property as authorized hereunder shall require that a prorated refund or credit of personal property tax be given for that portion of the tax year during which the property was legally assessed by another jurisdiction in the Commonwealth and the tax paid.~~ Any locality providing for the taxation of certain property on a proportional monthly or quarterly basis as authorized by general law or special act shall provide for a refund or credit of personal property tax for any tax year or portion thereof during which the property was legally assessed by another jurisdiction in the Commonwealth and the tax paid.

§ 58.1-3109. Duties of commissioners as to personal property, income and licenses.

Each commissioner of the revenue shall:

1. Review the lists of all persons licensed by the commissioner of the revenue and assess, for the current license year, additional license taxes for any person who has reported less than the law requires;

2. Upon investigation, assess the proper license taxes for any person who has without a license conducted any business for which a license is required;

3. Review, in regard to intangible personal property and income, such returns of taxpayers as may be referred to him by the Department of Taxation and report to the Department, for assessment, any additional intangible personal property and income when his review or investigation discloses that such property or income has not been reported for taxation or has been reported for taxation at less than the law requires;

4. Examine causes pending in the courts of his county or city and the records thereof and ascertain and assess all property and income subject to assessment by his office;

5. Require every taxpayer who may not have properly returned to the commissioner of the revenue all of his tangible and intangible personal property, and licenses for the current tax year and the three preceding tax years to make the proper and complete return;

6. Require taxpayers or their agents or any person, firm or officer of a company or corporation to

183 furnish information relating to tangible or intangible personal property, income or license taxes of any
184 and all taxpayers; and require such persons to furnish access to books of account or other papers and
185 records for the purpose of verifying the tax returns of such taxpayers and procuring the information
186 necessary to make a complete assessment of any taxpayer's tangible and intangible personal property,
187 and license taxes for the current tax year and the three preceding tax years;

188 7. Make such reports to the Department of Taxation as may be required by law or as the rules and
189 regulations adopted by the Tax Commissioner may require; and

190 8. Upon written request of any town treasurer or director of finance or other officer who performs
191 the duties of a treasurer and whose locality is located within such commissioner's jurisdiction, provide
192 the name, address and social security number of any taxpayer who has filed a personal property tax
193 return with such commissioner of the revenue, as long as such town treasurer or director of finance or
194 other officer who performs the duties of a treasurer shall certify that such information is sought in the
195 performance of official duties. Any town official to whom information is furnished pursuant to this
196 provision shall be bound by the provisions and penalties of § 58.1-3.

197 9. *Prepare and forward to the Auditor of Public Accounts by October 1 of each year a report stating*
198 *the number and value of passenger vehicles that are garaged or parked within his locality on the*
199 *preceding tax day. "Passenger vehicles" means the class of tangible personal property described in*
200 *subdivision A 27 of § 58.1-3506. The report shall be in such form and contain such information as the*
201 *Auditor of Public Accounts shall prescribe. The reported value of the passenger vehicles shall be*
202 *determined utilizing the same method of valuation authorized pursuant to subdivision A 3 of § 58.1-3503*
203 *in use in the locality on January 1, 1998. The report shall specify (i) the value of each passenger*
204 *vehicle, (ii) the total of the indexed amount of the value for all passenger vehicles, and (iii) such other*
205 *information as shall be requested by the Auditor of Public Accounts to allow him to estimate the*
206 *reimbursable personal property tax revenue for the two following calendar years pursuant to*
207 *§ 2.1-399.2. The reports shall also include information regarding (i) the number and value of passenger*
208 *vehicles garaged or parked within the locality on the tax day for each of the three preceding years and*
209 *(ii) the percentage of the locality's tangible personal property tax assessments that are collected within*
210 *one year after the tax is levied, for each of the preceding three years.*

211 § 58.1-3506. Other classifications of tangible personal property for taxation.

212 A. The items of property set forth below are each declared to be a separate class of property and
213 shall constitute a classification for local taxation separate from other classifications of tangible personal
214 property provided in this chapter:

215 1. Boats or watercraft weighing five tons or more;

216 2. Aircraft having a maximum passenger seating capacity of no more than fifty which are owned and
217 operated by scheduled air carriers operating under certificates of public convenience and necessity issued
218 by the State Corporation Commission or the Civil Aeronautics Board;

219 3. All other aircraft not included in subdivision A 2 and flight simulators;

220 4. Antique motor vehicles as defined in § 46.2-100 which may be used for general transportation
221 purposes as provided in subsection C of § 46.2-730;

222 5. Tangible personal property used in a research and development business;

223 6. Heavy construction machinery, including but not limited to land movers, bulldozers, front-end
224 loaders, graders, packers, power shovels, cranes, pile drivers, forest harvesting equipment and ditch and
225 other types of diggers;

226 7. Generating equipment purchased after December 31, 1974, for the purpose of changing the energy
227 source of a manufacturing plant from oil or natural gas to coal, wood, wood bark, wood residue, or any
228 other alternative energy source for use in manufacturing and any cogeneration equipment purchased to
229 achieve more efficient use of any energy source. Such generating equipment and cogeneration equipment
230 shall include, without limitation, such equipment purchased by firms engaged in the business of
231 generating electricity or steam, or both;

232 8. Vehicles without motive power, used or designed to be used as manufactured homes as defined in
233 § 36-85.3;

234 9. Computer hardware used by businesses primarily engaged in providing data processing services to
235 other nonrelated or nonaffiliated businesses;

236 10. Privately owned pleasure boats and watercraft used for recreational purposes only;

237 11. Privately owned vans with a seating capacity for twelve or more persons used exclusively
238 pursuant to a ridesharing arrangement as defined in § 46.2-1400;

239 12. Motor vehicles specially equipped to provide transportation for physically handicapped
240 individuals;

241 13. Motor vehicles (i) owned by members of a volunteer rescue squad or volunteer fire department
242 or (ii) leased by members of a volunteer rescue squad or volunteer fire department if the member is
243 obligated by the terms of the lease to pay tangible personal property tax on the motor vehicle. One
244 motor vehicle which is owned by each volunteer rescue squad member or volunteer fire department

member, or leased by each volunteer rescue squad member or volunteer fire department member if the member is obligated by the terms of the lease to pay tangible personal property tax on the motor vehicle, may be specially classified under this section, provided the volunteer rescue squad member or volunteer fire department member regularly responds to emergency calls. The volunteer shall furnish the commissioner of revenue, or other assessing officer, with a certification by the chief or head of the volunteer organization, that the volunteer is a member of the volunteer rescue squad or fire department who regularly responds to calls or regularly performs other duties for the rescue squad or fire department, and the motor vehicle owned or leased by the volunteer rescue squad member or volunteer fire department member is identified. The certification shall be submitted by January 31 of each year to the commissioner of revenue or other assessing officer; however, the commissioner of revenue or other assessing officer shall be authorized, in his discretion, and for good cause shown and without fault on the part of the member, to accept a certification after the January 31 deadline. In any county which prorates the assessment of tangible personal property pursuant to § 58.1-3516, a replacement vehicle may be certified and classified pursuant to this subsection when the vehicle certified as of the immediately prior January date is transferred during the tax year;

14. Motor vehicles (i) owned by auxiliary members of a volunteer rescue squad or volunteer fire department or (ii) leased by auxiliary members of a volunteer rescue squad or volunteer fire department if the member is obligated by the terms of the lease to pay tangible personal property tax on the motor vehicle. One motor vehicle which is regularly used by each auxiliary volunteer fire department or rescue squad member may be specially classified under this section. The auxiliary member shall furnish the commissioner of revenue, or other assessing officer, with a certification by the chief or head of the volunteer organization, that the volunteer is an auxiliary member of the volunteer rescue squad or fire department who regularly performs duties for the rescue squad or fire department, and the motor vehicle is identified as regularly used for such purpose; however, if a volunteer rescue squad or fire department member and an auxiliary member are members of the same household, that household shall be allowed only one special classification under this subdivision or subdivision 13 of this section. The certification shall be submitted by January 31 of each year to the commissioner of revenue or other assessing officer; however, the commissioner of revenue or other assessing officer shall be authorized, in his discretion, and for good cause shown and without fault on the part of the member, to accept a certification after the January 31 deadline;

15. Motor vehicles owned by a nonprofit organization and used to deliver meals to homebound persons or provide transportation to senior or handicapped citizens in the community to carry out the purposes of the nonprofit organization;

16. Privately owned camping trailers and motor homes as defined in § 46.2-100 which are used for recreational purposes only;

17. One motor vehicle owned and regularly used by a veteran who has either lost, or lost the use of, one or both legs, or an arm or a hand, or who is blind or who is permanently and totally disabled as certified by the Department of Veterans' Affairs. In order to qualify the veteran shall provide a written statement to the commissioner of revenue or other assessing officer from the Department of Veterans' Affairs that the veteran has been so designated or classified by the Department of Veterans' Affairs as to meet the requirements of this section, and that his disability is service-connected. For purposes of this section a person is blind if he meets the provisions of § 46.2-739;

18. Motor vehicles (i) owned by persons who have been appointed to serve as auxiliary police officers pursuant to Article 4 3 (§ ~~45.1-159.2~~ 15.2-1731 et seq.) of Chapter 3 17 of Title ~~45.4~~ 15.2 or (ii) leased by persons who have been so appointed to serve as auxiliary police officers if the person is obligated by the terms of the lease to pay tangible personal property tax on the motor vehicle. One motor vehicle which is regularly used by each auxiliary police officer to respond to auxiliary police duties may be specially classified under this section. In order to qualify for such classification any auxiliary police officer who applies for such classification shall identify the vehicle for which this classification is sought, and shall furnish the commissioner of revenue or other assessing officer with a certification from the governing body which has appointed such auxiliary police officer or from the official who has appointed such auxiliary officers. That certification shall state that the applicant is an auxiliary police officer who regularly uses a motor vehicle to respond to auxiliary police duties, and it shall state that the vehicle for which the classification is sought is the vehicle which is regularly used for that purpose. The certification shall be submitted by January 31 of each year to the commissioner of revenue or other assessing officer; however, the commissioner of revenue or other assessing officer shall be authorized, in his discretion, and for good cause shown and without fault on the part of the member, to accept a certification after the January 31 deadline;

19. Machines and tools owned by a commercial air carrier which uses such machines and tools in a commercial airline maintenance, repair, and rebuilding facility, which has an assessed value of at least \$100,000,000 and which is located on or contiguous to an airport;

306 20. Motor vehicles which use clean special fuels as defined in § 58.1-2101;

307 21. Wild or exotic animals kept for public exhibition in an indoor or outdoor facility which is
308 properly licensed by the federal government, the Commonwealth, or both, and which is properly zoned
309 for such use. "Wild animals" means any animals which are found in the wild, or in a wild state, within
310 the boundaries of the United States, its territories or possessions. "Exotic animals" means any animals
311 which are found in the wild, or in a wild state, and are native to a foreign country;

312 22. Furniture, office, and maintenance equipment, exclusive of motor vehicles, which are owned and
313 used by an organization whose real property is assessed in accordance with § 58.1-3284.1 and which is
314 used by that organization for the purpose of maintaining or using the open or common space within a
315 residential development;

316 23. Motor vehicles, trailers and semitrailers with a gross vehicle weight of 10,000 pounds or more
317 used to transport property for hire by a motor carrier engaged in interstate commerce;

318 24. All tangible personal property employed in a trade or business other than that described in
319 subdivisions A 1 through A 18 of § 58.1-3503;

320 25. Programmable computer equipment and peripherals employed in a trade or business; ~~and~~

321 26. Tangible personal property of Habitat for Humanity and local affiliates or subsidiaries thereof;
322 *and*

323 27. *Any passenger car, motorcycle, or pickup truck, as defined in § 46.2-100, other than those*
324 *described in subdivisions 4, 12, 13, 14, 15, 17, 18, 20, 24, or 26 of this subsection.*

325 B. The governing body of any county, city or town may levy a tax on the property enumerated in
326 subsection A at different rates from the tax levied on other tangible personal property. The rates of tax
327 and the rates of assessment shall (i) for purposes of subdivisions 1, 2, 3, 4, 6, 9 through 18, 20 through
328 22, 24, 25 and 26 of subsection A, not exceed that applicable to the general class of tangible personal
329 property, (ii) for purposes of subdivisions A 5, A 7, A 19, and A 23, not exceed that applicable to
330 machinery and tools, ~~and~~ (iii) for purposes of subdivision A 8, equal that applicable to real property,
331 *and (iv) for purposes of subdivision 27, be determined as provided in § 58.1-3005.1.*