VIRGINIA ACTS OF ASSEMBLY — CHAPTER

An Act to amend and reenact §§ 33.2-2605, 58.1-811, as it is currently effective, 58.1-816, and 58.1-1743 of the Code of Virginia and to amend the Code of Virginia by adding sections numbered 33.2-2600.1 and 58.1-802.4, relating to transit funding in the Hampton Roads region.

[H 1726]

Approved

Be it enacted by the General Assembly of Virginia:

1. That §§ 33.2-2605, 58.1-811, as it is currently effective, 58.1-816, and 58.1-1743 of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding sections numbered 33.2-2600.1 and 58.1-802.4 as follows:

§ 33.2-2600.1. Hampton Roads Regional Transit Program and Fund.

A. The General Assembly declares it to be in the public interest that developing and continuing operations of reliable regional public transportation is important for a balanced and effective multimodal transportation system in the Hampton Roads region and is essential to the region's economic growth, vitality, and competitiveness. The General Assembly further declares that a special transportation program, to be known as the Hampton Roads Regional Transit Program (the Program), should provide for the costs of developing, maintaining, and improving a core regional network of transit routes and related infrastructure, rolling stock, and support facilities that have the greatest positive impacts on economic development potential, employment opportunities, mobility, environmental sustainability, and quality of life. The goal of the Program is to provide a modern, safe, and efficient core network of transit services across the Hampton Roads region. The Program shall be incorporated into strategic plans developed pursuant to § 33.2-286 and adopted by the governing board of each transit entity and shall form the basis for the regional transit planning process coordinated by the federally designated Metropolitan Planning Organization.

B. There is hereby created in the state treasury a special nonreverting fund for Planning District 23 to be known as the Hampton Roads Regional Transit Fund, referred to in this chapter as "the Regional Transit Fund." The Regional Transit Fund shall be established on the books of the Comptroller. All revenues dedicated to the Regional Transit Fund pursuant to §§ 58.1-802.4, 58.1-816, and 58.1-1743 shall be paid into the state treasury and credited to the Regional Transit Fund. Interest earned on moneys in the Regional Transit Fund shall remain in the Regional Transit Fund and be credited to it. Any moneys remaining in the Regional Transit Fund, including interest thereon, at the end of each fiscal year shall not revert to the general fund but shall remain in the Regional Transit Fund.

C. The Regional Transit Fund shall be managed by the Commission, and disbursements from the Regional Transit Fund shall be approved by the Commission consistent with the regional transit planning process developed pursuant to subsection D of § 33.2-286. The moneys deposited in the Regional Transit Fund shall be used solely for (i) the development, maintenance, improvement, and operation of a core and connected regional network of transit routes and related infrastructure, rolling stock, and support facilities, to include the operation of a regional system of interjurisdictional, high-frequency bus service, in a transportation district in Hampton Roads created pursuant to § 33.2-1903 as included in the strategic plans and regional transit planning process developed pursuant to § 33.2-286 and (ii) administrative and operating expenses of the Commission as specified in subsection B of § 33.2-2605. In the allocation of funds, priority shall be given, when possible, to investments in the most sustainable and cost-effective operations, rolling stock, and facilities to reduce or eliminate reliance upon diesel fuels. Funds from the Regional Transit Fund shall not be used to support the expansion of light rail beyond the boundaries of a locality where light rail is operated on January 1, 2020. The amounts dedicated to the Regional Transit Fund shall be deposited monthly by the Comptroller into the Regional Transit Fund and thereafter distributed to the Commission as soon as practicable for use in accordance with this chapter. If the Commission determines that such moneys distributed to it exceed the amount required to meet the current needs and demands to fund transit projects pursuant to this chapter, the Commission may invest such excess moneys to the same extent and in the same manner as provided in subsection A of § 33.2-1525 for excess funds in the Transportation Trust Fund.

D. The amounts deposited into the Regional Transit Fund and the distribution and expenditure of such amounts shall not (i) be used to calculate or reduce the share of federal, state, or local revenues otherwise available to participating localities or (ii) diminish or supplant allocations and appropriations from other sources or diminish allocations to which a transportation district, transit system, or locality

would be entitled under any other provisions of law but shall supplement such funds to accelerate and augment transportation improvements in the Hampton Roads region. Further, such revenues and moneys shall not be included in any computation of, or formula for, a locality's ability to pay for public education, upon which appropriations of state revenues to local governments for public education are determined. Any amounts paid from the Regional Transit Fund shall be considered local funds when used to make a required match for state or federal transportation grant funds.

§ 33.2-2605. Annual budget and allocation of expenses.

A. The Commission shall adopt an annual budget and develop a funding plan and shall provide for such adoption in its bylaws. The funding plan shall provide for the expenditure of funds over a four- to six-year period and shall align with the Statewide Transportation Plan established pursuant to § 33.2-353 as much as possible. The Commission shall solicit public comment on its budget and funding plan by posting a summary of such budget and funding plan on its website and holding a public hearing. Such public hearing shall be advertised on the Commission's website and in a newspaper of general circulation in Planning District 23.

B. The administrative and operating expenses of the Commission shall be provided in an annual budget adopted by the Commission ~~and to~~. *To* the extent *that* funds for such expenses are not provided from other sources, *the expenses* shall be paid from the Fund *and the Regional Transit Fund on an approximately pro rata basis of the programs supported by the Fund and the Regional Transit Fund*. Such budget shall be limited solely to the administrative and operating expenses of the Commission and shall not include any funds for construction or acquisition of transportation facilities or the performance of any transportation service.

C. Members may be reimbursed for all reasonable and necessary expenses provided in §§ 2.2-2813 and 2.2-2825, if approved by the Commission. Funding for the costs of compensation and expenses of the members shall be provided by the Commission.

§ 58.1-802.4. Regional transportation improvement fee.

In addition to any other tax or fee imposed under the provisions of this chapter, a fee, delineated as the "regional transportation improvement fee," is hereby imposed on each deed, instrument, or writing by which lands, tenements, or other realty located in a county or city located in a transportation district in Hampton Roads created pursuant to § 33.2-1903 is sold and is granted, assigned, transferred, or otherwise conveyed to or vested in the purchaser or any other person, by such purchaser's direction. The rate of the fee, when the consideration or value of the interest, whichever is greater, equals or exceeds $100, shall be $0.06 for each $100 or fraction thereof, exclusive of the value of any lien or encumbrance remaining thereon at the time of the sale, whether such lien is assumed or the realty is sold subject to such lien or encumbrance.

The fee imposed by this section shall be paid by the grantor, or any person who signs on behalf of the grantor, of any deed, instrument, or writing subject to the fee imposed by this section.

No such deed, instrument, or other writing shall be admitted to record unless certification of the clerk wherein first recorded has been affixed thereto that the fee imposed pursuant to this section has been paid.

Fees imposed by this section shall be collected by the clerk of the court and deposited into the state treasury as soon as practicable. Such fees shall then be deposited into the Regional Transit Fund established in § 33.2-2600.1.

§ 58.1-811. (Contingent expiration date) Exemptions.

A. The taxes imposed by §§ 58.1-801 and 58.1-807 shall not apply to any deed conveying real estate or lease of real estate:

1. To an incorporated college or other incorporated institution of learning not conducted for profit, where such real estate is intended to be used for educational purposes and not as a source of revenue or profit;

2. To an incorporated church or religious body or to the trustee or trustees of any church or religious body, or a corporation mentioned in § 57-16.1, where such real estate is intended to be used exclusively for religious purposes, or for the residence of the minister of any such church or religious body;

3. To the United States, the Commonwealth, or to any county, city, town, district, or other political subdivision of the Commonwealth;

4. To the Virginia Division of the United Daughters of the Confederacy;

5. To any nonstock corporation organized exclusively for the purpose of owning or operating a hospital or hospitals not for pecuniary profit;

6. To a corporation upon its organization by persons in control of the corporation in a transaction which qualifies for nonrecognition of gain or loss pursuant to § 351 of the Internal Revenue Code as it exists at the time of the conveyance;

7. From a corporation to its stockholders upon complete or partial liquidation of the corporation in a transaction which qualifies for income tax treatment pursuant to § 331, 332, 333, or 337 of the Internal

Revenue Code as it exists at the time of liquidation;

8. To the surviving or new corporation, partnership, limited partnership, business trust, or limited liability company upon a merger or consolidation to which two or more such entities are parties, or in a reorganization within the meaning of § 368(a)(1)(C) and (F) of the Internal Revenue Code as amended;

9. To a subsidiary corporation from its parent corporation, or from a subsidiary corporation to a parent corporation, if the transaction qualifies for nonrecognition of gain or loss under the Internal Revenue Code as amended;

10. To a partnership or limited liability company, when the grantors are entitled to receive not less than 50 percent of the profits and surplus of such partnership or limited liability company, provided that the transfer to a limited liability company is not a precursor to a transfer of control of the assets of the company to avoid recordation taxes;

11. From a partnership or limited liability company, when the grantees are entitled to receive not less than 50 percent of the profits and surplus of such partnership or limited liability company, provided that the transfer from a limited liability company is not subsequent to a transfer of control of the assets of the company to avoid recordation taxes;

12. To trustees of a revocable inter vivos trust, when the grantors in the deed and the beneficiaries of the trust are the same persons, regardless of whether other beneficiaries may also be named in the trust instrument, when no consideration has passed between the grantor and the beneficiaries;

13. When the grantor is an organization exempt from taxation under § 501(c)(3) of the Internal Revenue Code that is organized and operated primarily to acquire land and purchase materials to erect or rehabilitate low-cost homes on such land, which homes are sold at cost to persons who otherwise would be unable to afford to buy a home through conventional means;

14. When it is a deed of partition, or any combination of deeds simultaneously executed and having the effect of a deed of partition, among joint tenants, tenants in common, or coparceners; or

15. When it is a deed transferring property pursuant to a decree of divorce or of separate maintenance or pursuant to a written instrument incident to such divorce or separation.

B. The taxes imposed by §§ 58.1-803 and 58.1-804 shall not apply to any deed of trust or mortgage:

1. Given by an incorporated college or other incorporated institution of learning not conducted for profit;

2. Given by the trustee or trustees of a church or religious body or given by an incorporated church or religious body, or given by a corporation mentioned in § 57-16.1;

3. Given by any nonstock corporation organized exclusively for the purpose of owning and/or operating a hospital or hospitals not for pecuniary profit;

4. Given by any local governmental entity or political subdivision of the Commonwealth to secure a debt payable to any other local governmental entity or political subdivision;

5. Securing a loan made by an organization described in subdivision A 13;

6. Securing a loan made by a county, city, or town, or an agency of such a locality, to a borrower whose household income does not exceed 80 percent of the area median household income established by the U.S. Department of Housing and Urban Development, for the purpose of erecting or rehabilitating a home for such borrower, including the purchase of land for such home; or

7. Given by any entity organized pursuant to Chapter 9.1 (§ 56-231.15 et seq.) of Title 56.

C. The tax imposed by § 58.1-802 and the fee imposed by ~~§~~ *§§* 58.1-802.3 *and 58.1-802.4* shall not apply to any:

1. Transaction described in subdivisions A 6 through 12, 14, and 15;

2. Instrument or writing given to secure a debt;

3. Deed conveying real estate from an incorporated college or other incorporated institution of learning not conducted for profit;

4. Deed conveying real estate from the United States, the Commonwealth or any county, city, town, district, or other political subdivision thereof;

5. Conveyance of real estate to the Commonwealth or any county, city, town, district, or other political subdivision thereof, if such political unit is required by law to reimburse the parties taxable pursuant to § 58.1-802 or subject to the fee under § 58.1-802.3 *or 58.1-802.4*; or

6. Deed conveying real estate from the trustee or trustees of a church or religious body or from an incorporated church or religious body, or from a corporation mentioned in § 57-16.1.

D. No recordation tax shall be required for the recordation of any deed of gift between a grantor or grantors and a grantee or grantees when no consideration has passed between the parties. Such deed shall state therein that it is a deed of gift.

E. The tax imposed by § 58.1-807 shall not apply to any lease to the United States, the Commonwealth, or any county, city, town, district, or other political subdivision of the Commonwealth.

F. The taxes and fees imposed by §§ 58.1-801, 58.1-802, 58.1-802.3, *58.1-802.4*, 58.1-807, 58.1-808, and 58.1-814 shall not apply to (i) any deed of gift conveying real estate or any interest therein to The

Nature Conservancy or (ii) any lease of real property or any interest therein to The Nature Conservancy, where such deed of gift or lease of real estate is intended to be used exclusively for the purpose of preserving wilderness, natural, or open space areas.

G. The words "trustee" or "trustees," as used in subdivisions A 2, B 2, and C 6, include the trustees mentioned in § 57-8 and the ecclesiastical officers mentioned in § 57-16.

H. No recordation tax levied pursuant to this chapter shall be levied on the release of a contractual right, if the release is contained within a single deed that performs more than one function, and at least one of the other functions performed by the deed is subject to the recordation tax.

I. No recordation tax levied pursuant to this chapter shall be levied on a deed, lease, easement, release, or other document recorded in connection with a concession pursuant to the Public-Private Transportation Act of 1995 (§ 33.2-1800 et seq.) or similar federal law.

J. No recordation tax shall be required for the recordation of any transfer on death deed or any revocation of transfer on death deed made pursuant to the Uniform Real Property Transfer on Death Act (§ 64.2-621 et seq.) when no consideration has passed between the parties.

K. No recordation tax levied pursuant to this chapter shall be required for the recordation of any deed of distribution when no consideration has passed between the parties. Such deed shall state therein on the front page that it is a deed of distribution. As used in this subsection, "deed of distribution" means a deed conveying property from an estate or trust (i) to the original beneficiaries of a trust from the trustees holding title under a deed in trust; (ii) the purpose of which is to comply with a devise or bequest in the decedent's will or to transfer title to one or more beneficiaries after the death of the settlor in accordance with a dispositive provision in the trust instrument; (iii) that carries out the exercise of a power of appointment; or (iv) is pursuant to the exercise of the power under the Uniform Trust Decanting Act (§ 64.2-779.1 et seq.).

§ 58.1-816. Distribution of recordation tax to cities and counties.

A. Effective October 1, 1993, twenty million dollars of the taxes imposed under §§ 58.1-801 through 58.1-809 which are actually paid into the state treasury, shall be distributed among the counties and cities of this Commonwealth in the manner provided in subsection B of this section. Effective July 1, 1994, such annual distribution shall increase to forty million dollars.

B. Subject to any transfers required under §§ 33.2-2400 and 58.1-816.1, ~~the share of the~~ *(i) $20 million of the* state taxes distributable under this section ~~among the counties and cities~~ *shall be deposited annually into the fund established pursuant to § 33.2-2600.1, and (ii) the remaining amount of state taxes distributable under this section* shall be apportioned and distributed quarterly to each county or city*, except for those counties or cities located in a transportation district in Hampton Roads created pursuant to § 33.2-1903*, by the Comptroller by multiplying the amount to be distributed by a fraction in which the numerator is the amount of the taxes imposed under §§ 58.1-801 through 58.1-809 and actually paid into the state treasury which are attributable to deeds and other instruments recorded in the county or city and the denominator is the amount of taxes imposed under §§ 58.1-801 through 58.1-809 actually paid into the state treasury. All distributions pursuant to ~~this section~~ *clause (ii)* shall be made on a quarterly basis within ~~thirty~~ *30* days of the end of the quarter. Such quarterly distribution shall equal ~~ten million dollars~~ *one quarter of the annual distribution amount set forth in subsection A available after the distribution required by clause (i)*. Each clerk of the court shall certify to the Comptroller, within ~~fifteen~~ *15* days after the end of the quarter, all amounts collected under §§ 58.1-801 through 58.1-809 and actually paid into the state treasury which are attributable to deeds and other instruments recorded in such county or city.

C. *All moneys distributed pursuant to clause (i) of subsection B shall be used in accordance with § 33.2- 2600.1.* All moneys distributed to counties and cities pursuant to ~~this section~~ *clause (ii) of subsection B* shall be used for (i) transportation purposes, including, without limitation, construction, administration, operation, improvement, maintenance, and financing of transportation facilities, or (ii) public education.

As used in this section, the term "transportation facilities" shall include all transportation-related facilities, including~~,~~ but not limited to~~,~~ all highway systems, public transportation or mass transit systems as defined in § 33.2-100, airports as defined in § 5.1-1, and port facilities as defined in § 62.1-140. Such term shall be liberally construed for purposes of this section.

D. If any revenues distributed to a county or city under ~~subsection C of this section~~ *clause (ii) of subsection B* are applied or expended for any transportation facilities under the control and jurisdiction of any state agency, board, commission, or authority, such transportation facilities shall be constructed, operated, administered, improved, and maintained in accordance with laws, rules, regulations, policies, and procedures governing such state agency, board, commission, or authority; however, in the event *that* these revenues, or a portion thereof, are expended for improving or constructing highways in a county ~~which~~ *that* is subject to the provisions of § 33.2-338, such expenditures shall be undertaken in the manner prescribed in that statute.

E. In the case of any distribution to a county or city in which an office sharing agreement pursuant to §§ 15.2-1637 and 15.2-3822 is in effect, the Comptroller shall divide the distribution among the office sharing counties and cities. Each clerk of the court acting pursuant to an office sharing agreement shall certify to the Comptroller, within ~~fifteen~~ *15* days after the end of the quarter, all amounts collected under §§ 58.1-801 through 58.1-809 and actually paid into the state treasury which are attributable to deeds and other instruments recorded on behalf of each county and city.

§ 58.1-1743. Transportation district transient occupancy tax.

A. In addition to all other fees and taxes imposed under law, there is hereby imposed an additional transient occupancy tax at the rate of two percent of the amount of the charge for the occupancy of any room or space occupied in any county or city located in a transportation district established pursuant to Chapter 19 (§ 33.2-1900 et seq.) of Title 33.2 that as of January 1, 2018, meets the criteria established in § 33.2-1936.

B. In addition to all other fees and taxes imposed under law, there is hereby imposed an additional transient occupancy tax at the rate of one percent of the amount of the charge for the occupancy of any room or space occupied in any county or city located in a transportation district in Hampton Roads created pursuant to § 33.2-1903.

C. The tax imposed under this section shall be imposed only for the occupancy of any room or space that is suitable or intended for occupancy by transients for dwelling, lodging, or sleeping purposes.

D. The tax imposed under this section shall be administered by the locality in which the room or space is located in the same manner as it administers the tax authorized by § 58.1-3819 or 58.1-3840, mutatis mutandis, except as herein provided. The revenue generated and collected from the tax shall be deposited by the local treasurer into the state treasury pursuant to § 2.2-806 and transferred by the Comptroller into special funds established by law. In the case of the Northern Virginia Transportation District, the revenue generated and collected therein shall be deposited into the fund established in § 33.2-3401. *In the case of a transportation district in Hampton Roads created pursuant to § 33.2-1903, the revenue generated and collected therein shall be deposited into the fund established in § 33.2-2600.1.* For additional transportation districts that may become subject to this section, funds shall be established by appropriate legislation.

2. That the provisions of this act that generate additional revenues through state taxes or fees for transportation in a transportation district in Hampton Roads created pursuant to § 33.2-1903 of the Code of Virginia shall expire on December 31 of any year in which the General Assembly appropriates any of such additional revenues for any non-transportation-related purpose or transfers any of such additional revenues that are to be deposited into the Hampton Roads Regional Transit Fund, as created by this act, or any subfund thereof, pursuant to general law for a non-transportation-related purpose. In the event a local government of any county or city wherein the additional taxes or fees are levied appropriates or allocates any such additional revenues to a non-transportation purpose, such locality shall not be the direct beneficiary of any of the revenues generated by the taxes or fees in the year immediately succeeding the year in which the revenues were appropriated or allocated to a non-transportation purpose.

3. That the Hampton Roads Transportation Planning Organization shall establish a regional transit advisory panel composed of representatives of major business and industry groups, employers, shopping destinations, institutions of higher education, military installations, hospitals and health care centers, public transit entities, and any other groups identified as necessary to provide ongoing advice to the regional planning process required pursuant to § 33.2-286 of the Code of Virginia on the long-term vision for a multimodal regional public transit network in Hampton Roads.