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SENATE BILL NO. 363

Offered January 12, 2022

Prefiled January 11, 2022

A BILL to amend and reenact § 58.1-816, as it is currently effective and as it may become effective, of the Code of Virginia, relating to distribution of recordation tax to cities and counties.

Patron—Stuart

Referred to Committee on Finance and Appropriations

Be it enacted by the General Assembly of Virginia:

1. That § 58.1-816, as it is currently effective and as it may become effective, of the Code of Virginia is amended and reenacted as follows:

§ 58.1-816. (Contingent expiration date) Distribution of recordation tax to cities and counties.

A. Effective October 1, 1993, \$20 million of the taxes imposed under §§ 58.1-801 through 58.1-809 that are actually paid into the state treasury, shall be distributed among the counties and cities of the Commonwealth, except for counties and cities located in Planning District 8, in the manner provided in subsection B. Effective July 1, 1994, such annual distribution shall increase to \$40 million. Effective July 1, 2020, such annual distribution shall be \$20 million.

B. Subject to any transfer required under § 58.1-816.1, ~~(i) \$20 million of the share of the state taxes distributable under this section 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 among the counties and cities 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 ~~clause (i) this section~~ shall be made on a quarterly basis within 30 days of the end of the quarter. Such quarterly distribution shall equal 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 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 ~~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 ~~clause (ii) of subsection B~~ C 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 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 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.

§ 58.1-816. (Contingent effective date) Distribution of recordation tax to cities and counties.

A. Effective October 1, 1993, \$20 million of the taxes imposed under §§ 58.1-801 through 58.1-809 that are actually paid into the state treasury, shall be distributed among the counties and cities of the Commonwealth, ~~except for counties and cities located in Planning District 8,~~ in the manner provided in

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59 subsection B. Effective July 1, 1994, such annual distribution shall increase to \$40 million. Effective
60 July 1, 2020, such annual distribution shall be \$20 million.

61 B. Subject to any transfer required under § 58.1-816.1, the share of the state taxes distributable under
62 this section among the counties and cities shall be apportioned and distributed quarterly to each county
63 or city by the Comptroller by multiplying the amount to be distributed by a fraction in which the
64 numerator is the amount of the taxes imposed under §§ 58.1-801 through 58.1-809 and actually paid
65 into the state treasury which are attributable to deeds and other instruments recorded in the county or
66 city and the denominator is the amount of taxes imposed under §§ 58.1-801 through 58.1-809 actually
67 paid into the state treasury. All distributions pursuant to this section shall be made on a quarterly basis
68 within 30 days of the end of the quarter. Such quarterly distribution shall equal ~~\$10 million~~ *one quarter*
69 *of the annual distribution amount set forth in subsection A.* Each clerk of the court shall certify to the
70 Comptroller, within 15 days after the end of the quarter, all amounts collected under §§ 58.1-801
71 through 58.1-809 and actually paid into the state treasury which are attributable to deeds and other
72 instruments recorded in such county or city.

73 C. All moneys distributed to counties and cities pursuant to this section shall be used for (i)
74 transportation purposes, including, without limitation, construction, administration, operation,
75 improvement, maintenance and financing of transportation facilities, or (ii) public education.

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

80 D. If any revenues distributed to a county or city under subsection C are applied or expended for any
81 transportation facilities under the control and jurisdiction of any state agency, board, commission or
82 authority, such transportation facilities shall be constructed, operated, administered, improved and
83 maintained in accordance with laws, rules, regulations, policies and procedures governing such state
84 agency, board, commission or authority; however, in the event these revenues, or a portion thereof, are
85 expended for improving or constructing highways in a county which is subject to the provisions of
86 § 33.2-338, such expenditures shall be undertaken in the manner prescribed in that statute.

87 E. In the case of any distribution to a county or city in which an office sharing agreement pursuant
88 to §§ 15.2-1637 and 15.2-3822 is in effect, the Comptroller shall divide the distribution among the office
89 sharing counties and cities. Each clerk of the court acting pursuant to an office sharing agreement shall
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92 and other instruments recorded on behalf of each county and city.