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HOUSE BILL NO. 2487

Offered January 13, 2025

Prefiled January 8, 2025

A BILL to amend and reenact §§ 58.1-605.1 and 58.1-606.1 of the Code of Virginia, relating to additional local sales and use tax to support schools; use of funds.

Patrons—Green, Clark and Williams

Referred to Committee on Finance

Be it enacted by the General Assembly of Virginia:

1. That §§ 58.1-605.1 and 58.1-606.1 of the Code of Virginia are amended and reenacted as follows:

§ 58.1-605.1. Additional local sales tax in certain localities; use of revenues for construction or renovation of schools.

A. 1. In addition to the sales tax authorized under § 58.1-605, a qualifying locality may levy a general retail sales tax at a rate not to exceed one percent as determined by its governing body to provide revenue solely for capital projects for the construction or renovation of schools in each such locality. Such tax shall be added to the rates of the state and local sales tax imposed by this chapter and shall be subject to all the provisions of this chapter and the rules and regulations published with respect thereto. No discount under § 58.1-622 shall be allowed on this local sales tax.

2. Any tax imposed pursuant to this section shall expire (i) if the capital projects for the construction or renovation of schools are to be financed by bonds or loans, on the date by which such bonds or loans shall be repaid or (ii) if the capital projects for the construction or renovation of schools are not to be financed by bonds or loans, on a date chosen by the governing body and specified in any resolution passed pursuant to the provisions of subdivision B 1. Such expiration date shall not be more than 20 years after the date of the resolution passed pursuant to the provisions of subdivision B 1.

B. 1. This tax may be levied only if the tax is approved in a referendum within the qualifying locality held in accordance with § 24.2-684 and initiated by a resolution of the local governing body. Such resolution shall state (i) if the capital projects for the construction or renovation of schools are to be financed by bonds or loans, the date by which such bonds or loans shall be repaid or (ii) if the capital projects for the construction or renovation of schools are not to be financed by bonds or loans, a specified date on which the sales tax shall expire.

2. The clerk of the circuit court shall publish notice of the referendum in a newspaper of general circulation in the qualifying locality once a week for three consecutive weeks prior to the election. The question on the ballot for the referendum shall include language stating (i) that the revenues from the sales tax shall be used solely for capital projects for the construction or renovation of schools and (ii) the date on which the sales tax shall expire.

C. The governing body of the qualifying locality, if it elects to impose a local sales tax under this section after approval at a referendum as provided in subsection B shall do so by the adoption of an ordinance stating its purpose and referring to this section and providing that such ordinance shall be effective on the first day of a month at least 120 days after its adoption. Such ordinance shall state the date on which the sales tax shall expire. A certified copy of such ordinance shall be forwarded to the Tax Commissioner so that it will be received within five days after its adoption.

D. Any local sales tax levied under this section shall be administered and collected by the Tax Commissioner in the same manner and subject to the same exemptions and penalties as provided for the state sales tax; however, the local sales tax levied under this section shall not be levied on food purchased for human consumption or essential personal hygiene products, as such terms are defined in § 58.1-611.1.

E. All local sales tax moneys collected by the Tax Commissioner under this section shall be paid into the state treasury to the credit of a special fund that is hereby created on the Comptroller's books for each qualifying locality under the name "Collections of Additional Local Sales Taxes in \_\_\_\_ (INSERT NAME OF THE QUALIFYING LOCALITY)." Each fund shall be administered as provided in § 58.1-605. A separate fund shall be created for each qualifying locality. Only local sales tax moneys collected in that qualifying locality shall be deposited in that locality's fund.

F. As soon as practicable after the local sales tax moneys have been paid into the state treasury in any month for the preceding month, the Comptroller shall draw his warrant on the State Treasurer in the proper amount in favor of each qualifying locality, and such payments shall be charged to the account of the qualifying locality under its special fund created by this section. If errors are made in any such payment, or adjustments are otherwise necessary, whether attributable to refunds to taxpayers or to some other fact, the errors shall be corrected and adjustments made in the payments for the next two months as follows: one-half

59 of the total adjustment shall be included in the payment for each of the next two months. In addition, the  
 60 payment shall include a refund of amounts erroneously not paid to each qualifying locality and not previously  
 61 refunded during the three years preceding the discovery of the error. A correction and adjustment in payments  
 62 described in this subsection due to the misallocation of funds by the dealer shall be made within three years  
 63 of the date of the payment error.

64 G. The revenues from this tax shall be used solely for capital projects for new construction or major  
 65 renovation of schools in the qualifying locality, including bond and loan financing costs related to such  
 66 construction or renovation. *Notwithstanding the foregoing, Gloucester County may, if approved by an*  
 67 *ordinance enacted by its board of supervisors, utilize the revenues from this tax for repayment of existing*  
 68 *indebtedness incurred from capital projects for new construction or major renovation of schools that were*  
 69 *begun or completed prior to the imposition of such tax, regardless of whether such use of funds was*  
 70 *described in the referendum authorizing such tax.*

71 **§ 58.1-606.1. Additional local use tax in certain localities; use of revenues for construction or**  
 72 **renovation of schools.**

73 A. 1. The governing body of a qualifying locality may levy a use tax at the rate of such sales tax under §  
 74 58.1-605.1 to provide revenue for capital projects for the construction or renovation of schools in such  
 75 locality. Such tax shall be added to the rates of the state and local use tax imposed by this chapter and shall be  
 76 subject to all the provisions of this chapter, and all amendments thereof, and the rules and regulations  
 77 published with respect thereto, except that no discount under § 58.1-622 shall be allowed on a local use tax.

78 2. Any tax imposed pursuant to this section shall expire (i) if the capital projects for the construction or  
 79 renovation of schools are to be financed by bonds or loans, on the date by which such bonds or loans shall be  
 80 repaid or (ii) if the capital projects for the construction or renovation of schools are not to be financed by  
 81 bonds or loans, on a date chosen by the governing body and specified in any resolution passed pursuant to the  
 82 provisions of subsection B. Such expiration date shall not be more than 20 years after the date of the  
 83 resolution passed pursuant to the provisions of subsection B.

84 B. The governing body of the qualifying locality, if it elects to impose a local use tax under this section  
 85 may do so only if it has previously imposed the local sales tax authorized by § 58.1-605.1, by the adoption of  
 86 an ordinance stating its purpose and referring to this section and providing that the local use tax shall become  
 87 effective on the first day of a month at least 120 days after its adoption. Such ordinance shall state the date on  
 88 which the use tax shall expire. A certified copy of such ordinance shall be forwarded to the Tax  
 89 Commissioner so that it will be received within five days after its adoption.

90 C. Any local use tax levied under this section shall be administered and collected by the Tax  
 91 Commissioner in the same manner and subject to the same exemptions and penalties as provided for the state  
 92 use tax; however, the local use tax levied under this section shall not be levied on food purchased for human  
 93 consumption or essential personal hygiene products, as such terms are defined in § 58.1-611.1.

94 D. The local use tax authorized by this section shall not apply to transactions to which the sales tax  
 95 applies, the situs of which for state and local sales tax purposes is the locality of location of each place of  
 96 business of every dealer paying the tax to the Commonwealth without regard to the locality of possible use by  
 97 the purchasers. However, the local use tax authorized by this section shall apply to tangible personal property  
 98 purchased outside the Commonwealth for use or consumption within the locality imposing the local use tax,  
 99 or stored within the locality for use or consumption, where the property would have been subject to the sales  
 100 tax if it had been purchased within the Commonwealth. The local use tax shall also apply to leases or rentals  
 101 of tangible personal property where the place of business of the lessor is outside the Commonwealth and such  
 102 leases or rentals are subject to the state tax. Moreover, the local use tax shall apply in all cases in which the  
 103 state use tax applies.

104 E. Out-of-state dealers who hold certificates of registration to collect the use tax from their customers for  
 105 remittance to the Commonwealth shall, to the extent reasonably practicable, in filing their monthly use tax  
 106 returns with the Tax Commissioner, break down their shipments into the Commonwealth by counties and  
 107 cities so as to show the county or city of destination. If, however, the out-of-state dealer is unable accurately  
 108 to assign any shipment to a particular county or city, the local use tax on the tangible personal property  
 109 involved shall be remitted to the Commonwealth by such dealer without attempting to assign the shipment to  
 110 any county or city.

111 F. Local use tax revenue shall be deposited in the special fund established pursuant to subsection E of §  
 112 58.1-605.1. The Comptroller shall distribute the revenue to the qualifying locality.

113 G. All revenue from this local use tax revenue shall be used solely for capital projects for new  
 114 construction or major renovation of schools in the qualifying locality, including bond and loan financing  
 115 costs related to such construction or renovation. *Notwithstanding the foregoing, Gloucester County may, if*  
 116 *approved by an ordinance enacted by its board of supervisors, utilize the revenues from this tax for*  
 117 *repayment of existing indebtedness incurred from capital projects for new construction or major renovation*  
 118 *of schools that were begun or completed prior to the imposition of such tax, regardless of whether such use of*  
 119 *funds was described in the referendum authorizing such tax.*