

VIRGINIA ACTS OF ASSEMBLY — CHAPTER

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*An Act to amend and reenact § 58.1-605, as it is currently effective and as it may become effective, of the Code of Virginia, and to amend the Code of Virginia by adding sections numbered 58.1-605.1 and 58.1-606.1, relating to an additional local sales and use tax in Halifax County; appropriations of Halifax County to incorporated towns for educational purposes.*

[H 1634]

Approved

**Be it enacted by the General Assembly of Virginia:**

**1. That § 58.1-605, as it is currently effective and as it may become effective, of the Code of Virginia is amended and reenacted and that the Code of Virginia is amended by adding sections numbered 58.1-605.1 and 58.1-606.1 as follows:**

**§ 58.1-605. (Contingent expiration date) To what extent and under what conditions cities and counties may levy local sales taxes; collection thereof by Commonwealth and return of revenue to each city or county entitled thereto.**

A. No county, city or town shall impose any local general sales or use tax or any local general retail sales or use tax except as authorized by this section *or § 58.1-605.1.*

B. The council of any city and the governing body of any county may levy a general retail sales tax at the rate of one percent to provide revenue for the general fund of such city or county. Such tax shall be added to the rate of the state sales tax imposed by §§ 58.1-603 and 58.1-604 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 a local sales tax.

C. The council of any city and the governing body of any county desiring to impose a local sales tax under this section may 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 60 days after its adoption. 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 penalties as provided for the state sales tax.

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 which is hereby created on the Comptroller's books under the name "Collections of Local Sales Taxes." Such local sales tax moneys shall be credited to the account of each particular city or county levying a local sales tax under this section. The basis of such credit shall be the city or county in which the sales were made as shown by the records of the Department and certified by it monthly to the Comptroller, namely, the city or county of location of each place of business of every dealer paying the tax to the Commonwealth without regard to the city or county of possible use by the purchasers. If a dealer has any place of business located in more than one political subdivision by reason of the boundary line or lines passing through such place of business, the amount of sales tax paid by such a dealer with respect to such place of business shall be treated for the purposes of this section as follows: one-half shall be assignable to each political subdivision where two are involved, one-third where three are involved, and one-fourth where four are involved.

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 Treasurer of Virginia in the proper amount in favor of each city or county entitled to the monthly return of its local sales tax moneys, and such payments shall be charged to the account of each such city or county under the 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 of the total adjustment shall be included in the payments for the next two months. In addition, the payment shall include a refund of amounts erroneously not paid to the city or county and not previously refunded during the three years preceding the discovery of the error. A correction and adjustment in payments described in this subsection due to the misallocation of funds by the dealer shall be made within three years of the date of the payment error.

G. Such payments to counties are subject to the qualification that in any county wherein is situated any incorporated town constituting a special school district and operated as a separate school district under a town school board of three members appointed by the town council, the county treasurer shall pay into the town treasury for general governmental purposes the proper proportionate amount received

57 by him in the ratio that the school age population of such town bears to the school age population of  
 58 the entire county. If the school age population of any town constituting a separate school district is  
 59 increased by the annexation of territory since the last estimate of school age population provided by the  
 60 Weldon Cooper Center for Public Service, such increase shall, for the purposes of this section, be added  
 61 to the school age population of such town as shown by the last such estimate and a proper reduction  
 62 made in the school age population of the county or counties from which the annexed territory was  
 63 acquired.

64 H. One-half of such payments to counties are subject to the further qualification, other than as set  
 65 out in subsection G above, that in any county wherein is situated any incorporated town not constituting  
 66 a separate special school district ~~which~~ *that* has complied with its charter provisions providing for the  
 67 election of its council and mayor for a period of at least four years immediately prior to the adoption of  
 68 the sales tax ordinance, the county treasurer shall pay into the town treasury of each such town for  
 69 general governmental purposes the proper proportionate amount received by him in the ratio that the  
 70 school age population of each such town bears to the school age population of the entire county, based  
 71 on the latest estimate provided by the Weldon Cooper Center for Public Service. The preceding  
 72 requirement pertaining to the time interval between compliance with election provisions and adoption of  
 73 the sales tax ordinance shall not apply to a tier-city. If the school age population of any such town not  
 74 constituting a separate special school district is increased by the annexation of territory or otherwise  
 75 since the last estimate of school age population provided by the Weldon Cooper Center for Public  
 76 Service, such increase shall, for the purposes of this section, be added to the school age population of  
 77 such town as shown by the last such estimate and a proper reduction made in the school age population  
 78 of the county or counties from which the annexed territory was acquired.

79 I. Notwithstanding the provisions of subsection H, the board of supervisors of a county may, in its  
 80 discretion, appropriate funds to any incorporated town not constituting a separate school district within  
 81 such county ~~which~~ *that* has not complied with the provisions of its charter relating to the elections of its  
 82 council and mayor, an amount not to exceed the amount it would have received from the tax imposed  
 83 by this chapter if such election had been held; *however, Halifax County may appropriate any amount to*  
 84 *any such incorporated town.*

85 J. It is further provided that if any incorporated town which would otherwise be eligible to receive  
 86 funds from the county treasurer under subsection G or H ~~of this section~~ be located in a county ~~which~~  
 87 *that* does not levy a general retail sales tax under the provisions of this law, such town may levy a  
 88 general retail sales tax at the rate of one percent to provide revenue for the general fund of the town,  
 89 subject to all the provisions of this section generally applicable to cities and counties. Any tax levied  
 90 under the authority of this subsection shall in no case continue to be levied on or after the effective date  
 91 of a county ordinance imposing a general retail sales tax in the county within which such town is  
 92 located.

93 **§ 58.1-605. (Contingent effective date) To what extent and under what conditions cities and**  
 94 **counties may levy local sales taxes; collection thereof by Commonwealth and return of revenue to**  
 95 **each city or county entitled thereto.**

96 A. No county, city or town shall impose any local general sales or use tax or any local general retail  
 97 sales or use tax except as authorized by this section *or § 58.1-605.1.*

98 B. The council of any city and the governing body of any county may levy a general retail sales tax  
 99 at the rate of one percent to provide revenue for the general fund of such city or county. Such tax shall  
 100 be added to the rate of the state sales tax imposed by §§ 58.1-603 and 58.1-604 and shall be subject to  
 101 all the provisions of this chapter and the rules and regulations published with respect thereto. No  
 102 discount under § 58.1-622 shall be allowed on a local sales tax.

103 C. The council of any city and the governing body of any county desiring to impose a local sales tax  
 104 under this section may do so by the adoption of an ordinance stating its purpose and referring to this  
 105 section, and providing that such ordinance shall be effective on the first day of a month at least 60 days  
 106 after its adoption. A certified copy of such ordinance shall be forwarded to the Tax Commissioner so  
 107 that it will be received within five days after its adoption.

108 D. Prior to any change in the rate of the local sales and use tax, the Tax Commissioner shall provide  
 109 remote sellers and single and consolidated providers with at least 30 days' notice. Any change in the rate  
 110 of local sales and use tax shall only become effective on the first day of a calendar quarter. Failure to  
 111 provide notice pursuant to this section shall require the Commonwealth and the locality to hold the  
 112 remote seller or single or consolidated provider harmless for collecting the tax at the immediately  
 113 preceding effective rate for any period of time prior to 30 days after notification is provided.

114 E. Any local sales tax levied under this section shall be administered and collected by the Tax  
 115 Commissioner in the same manner and subject to the same penalties as provided for the state sales tax.

116 F. All local sales tax moneys collected by the Tax Commissioner under this section shall be paid  
 117 into the state treasury to the credit of a special fund which is hereby created on the Comptroller's books

118 under the name "Collections of Local Sales Taxes." Such local sales tax moneys shall be credited to the  
 119 account of each particular city or county levying a local sales tax under this section. The basis of such  
 120 credit shall be the city or county in which the sales were made as shown by the records of the  
 121 Department and certified by it monthly to the Comptroller, namely, the city or county of location of  
 122 each place of business of every dealer paying the tax to the Commonwealth without regard to the city or  
 123 county of possible use by the purchasers. If a dealer has any place of business located in more than one  
 124 political subdivision by reason of the boundary line or lines passing through such place of business, the  
 125 amount of sales tax paid by such a dealer with respect to such place of business shall be treated for the  
 126 purposes of this section as follows: one-half shall be assignable to each political subdivision where two  
 127 are involved, one-third where three are involved, and one-fourth where four are involved.

128 G. As soon as practicable after the local sales tax moneys have been paid into the state treasury in  
 129 any month for the preceding month, the Comptroller shall draw his warrant on the Treasurer of Virginia  
 130 in the proper amount in favor of each city or county entitled to the monthly return of its local sales tax  
 131 moneys, and such payments shall be charged to the account of each such city or county under the  
 132 special fund created by this section. If errors are made in any such payment, or adjustments are  
 133 otherwise necessary, whether attributable to refunds to taxpayers, or to some other fact, the errors shall  
 134 be corrected and adjustments made in the payments for the next two months as follows: one-half of the  
 135 total adjustment shall be included in the payments for the next two months. In addition, the payment  
 136 shall include a refund of amounts erroneously not paid to the city or county and not previously refunded  
 137 during the three years preceding the discovery of the error. A correction and adjustment in payments  
 138 described in this subsection due to the misallocation of funds by the dealer shall be made within three  
 139 years of the date of the payment error.

140 H. Such payments to counties are subject to the qualification that in any county wherein is situated  
 141 any incorporated town constituting a special school district and operated as a separate school district  
 142 under a town school board of three members appointed by the town council, the county treasurer shall  
 143 pay into the town treasury for general governmental purposes the proper proportionate amount received  
 144 by him in the ratio that the school age population of such town bears to the school age population of  
 145 the entire county. If the school age population of any town constituting a separate school district is  
 146 increased by the annexation of territory since the last estimate of school age population provided by the  
 147 Weldon Cooper Center for Public Service, such increase shall, for the purposes of this section, be added  
 148 to the school age population of such town as shown by the last such estimate and a proper reduction  
 149 made in the school age population of the county or counties from which the annexed territory was  
 150 acquired.

151 I. One-half of such payments to counties are subject to the further qualification, other than as set out  
 152 in subsection H, that in any county wherein is situated any incorporated town not constituting a separate  
 153 special school district ~~which~~ *that* has complied with its charter provisions providing for the election of  
 154 its council and mayor for a period of at least four years immediately prior to the adoption of the sales  
 155 tax ordinance, the county treasurer shall pay into the town treasury of each such town for general  
 156 governmental purposes the proper proportionate amount received by him in the ratio that the school age  
 157 population of each such town bears to the school age population of the entire county, based on the latest  
 158 estimate provided by the Weldon Cooper Center for Public Service. The preceding requirement  
 159 pertaining to the time interval between compliance with election provisions and adoption of the sales tax  
 160 ordinance shall not apply to a tier-city. If the school age population of any such town not constituting a  
 161 separate special school district is increased by the annexation of territory or otherwise since the last  
 162 estimate of school age population provided by the Weldon Cooper Center for Public Service, such  
 163 increase shall, for the purposes of this section, be added to the school age population of such town as  
 164 shown by the last such estimate and a proper reduction made in the school age population of the county  
 165 or counties from which the annexed territory was acquired.

166 J. Notwithstanding the provisions of subsection I, the board of supervisors of a county may, in its  
 167 discretion, appropriate funds to any incorporated town not constituting a separate school district within  
 168 such county ~~which~~ *that* has not complied with the provisions of its charter relating to the elections of its  
 169 council and mayor, an amount not to exceed the amount it would have received from the tax imposed  
 170 by this chapter if such election had been held; *however, Halifax County may appropriate any amount to*  
 171 *any such incorporated town.*

172 K. It is further provided that if any incorporated town which would otherwise be eligible to receive  
 173 funds from the county treasurer under subsection H or I be located in a county ~~which~~ *that* does not levy  
 174 a general retail sales tax under the provisions of this law, such town may levy a general retail sales tax  
 175 at the rate of one percent to provide revenue for the general fund of the town, subject to all the  
 176 provisions of this section generally applicable to cities and counties. Any tax levied under the authority  
 177 of this subsection shall in no case continue to be levied on or after the effective date of a county  
 178 ordinance imposing a general retail sales tax in the county within which such town is located.

179 **§ 58.1-605.1. Additional local sales tax in Halifax County; use of revenues for construction or**  
180 **renovation of schools.**

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

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

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

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

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

210 D. Any local sales tax levied under this section shall be administered and collected by the Tax  
211 Commissioner in the same manner and subject to the same exemptions and penalties as provided for the  
212 state sales tax; however, the local sales tax levied under this section shall not be levied on food  
213 purchased for human consumption, as defined in § 58.1-611.1.

214 E. All local sales tax moneys collected by the Tax Commissioner under this section shall be paid into  
215 the state treasury to the credit of a special fund that is hereby created on the Comptroller's books under  
216 the name "Collections of Additional Local Sales Taxes in Halifax County." The fund shall be  
217 administered as provided in § 58.1-605.

218 F. As soon as practicable after the local sales tax moneys have been paid into the state treasury in  
219 any month for the preceding month, the Comptroller shall draw his warrant on the State Treasurer in  
220 the proper amount in favor of Halifax County, and such payments shall be charged to the account of  
221 Halifax County under the special fund created by this section. If errors are made in any such payment,  
222 or adjustments are otherwise necessary, whether attributable to refunds to taxpayers or to some other  
223 fact, the errors shall be corrected and adjustments made in the payments for the next two months as  
224 follows: one-half of the total adjustment shall be included in the payment for each of the next two  
225 months. In addition, the payment shall include a refund of amounts erroneously not paid to Halifax  
226 County and not previously refunded during the three years preceding the discovery of the error. A  
227 correction and adjustment in payments described in this subsection due to the misallocation of funds by  
228 the dealer shall be made within three years of the date of the payment error.

229 G. The revenues from this tax shall be used solely for capital projects for new construction or major  
230 renovation of schools in Halifax County, including bond and loan financing costs related to such  
231 construction or renovation.

232 **§ 58.1-606.1. Additional local use tax in Halifax County; use of revenues for construction or**  
233 **renovation of schools.**

234 A. 1. The governing body of Halifax County may levy a use tax at the rate of such sales tax under  
235 § 58.1-605.1 to provide revenue for capital projects for the construction or renovation of schools in  
236 Halifax County. Such tax shall be added to the rates of the state and local use tax imposed by this  
237 chapter and shall be subject to all the provisions of this chapter, and all amendments thereof, and the  
238 rules and regulations published with respect thereto, except that no discount under § 58.1-622 shall be  
239 allowed on a local use tax.

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

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

252 C. Any local use tax levied under this section shall be administered and collected by the Tax  
 253 Commissioner in the same manner and subject to the same exemptions and penalties as provided for the  
 254 state use tax; however, the local sales tax levied under this section shall not be levied on food  
 255 purchased for human consumption, as defined in § 58.1-611.1.

256 D. The local use tax authorized by this section shall not apply to transactions to which the sales tax  
 257 applies, the situs of which for state and local sales tax purposes is the locality of location of each place  
 258 of business of every dealer paying the tax to the Commonwealth without regard to the locality of  
 259 possible use by the purchasers. However, the local use tax authorized by this section shall apply to  
 260 tangible personal property purchased outside the Commonwealth for use or consumption within the  
 261 locality imposing the local use tax, or stored within the locality for use or consumption, where the  
 262 property would have been subject to the sales tax if it had been purchased within the Commonwealth.  
 263 The local use tax shall also apply to leases or rentals of tangible personal property where the place of  
 264 business of the lessor is outside the Commonwealth and such leases or rentals are subject to the state  
 265 tax. Moreover, the local use tax shall apply in all cases in which the state use tax applies.

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

273 F. Local use tax revenue shall be deposited in the special fund established pursuant to subsection E  
 274 of § 58.1-605.1. The Comptroller shall distribute the revenue to Halifax County.

275 G. All revenue from this local use tax revenue shall be used solely for capital projects for new  
 276 construction or major renovation of schools in Halifax County, including bond and loan financing costs  
 277 related to such construction or renovation.