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HOUSE BILL NO. 2091

AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the Senate Committee on Finance
on February 10, 2009)

(Patrons Prior to Substitute—Delegates Fralin and Ware, O. [HB 2264])

A *BILL to amend and reenact § 58.1-608.3 of the Code of Virginia, relating to sales and use tax; entitlement to revenues.*

Be it enacted by the General Assembly of Virginia:**1. That § 58.1-608.3 of the Code of Virginia is amended and reenacted as follows:**

§ 58.1-608.3. Entitlement to certain sales tax revenues.

A. As used in this section, the following words and terms have the following meanings, unless some other meaning is plainly intended:

"Bonds" means any obligations of a municipality for the payment of money.

"Cost," as applied to any public facility or to extensions or additions to any public facility, includes:

(i) the purchase price of any public facility acquired by the municipality or the cost of acquiring all of the capital stock of the corporation owning the public facility and the amount to be paid to discharge any obligations in order to vest title to the public facility or any part of it in the municipality; (ii) expenses incident to determining the feasibility or practicability of the public facility; (iii) the cost of plans and specifications, surveys and estimates of costs and of revenues; (iv) the cost of all land, property, rights, easements and franchises acquired; (v) the cost of improvements, property or equipment; (vi) the cost of engineering, legal and other professional services; (vii) the cost of construction or reconstruction; (viii) the cost of all labor, materials, machinery and equipment; (ix) financing charges; (x) interest before and during construction and for up to one year after completion of construction; (xi) start-up costs and operating capital; (xii) payments by a municipality of its share of the cost of any multijurisdictional public facility; (xiii) administrative expense; (xiv) any amounts to be deposited to reserve or replacement funds; and (xv) other expenses as may be necessary or incident to the financing of the public facility. Any obligation or expense incurred by the public facility in connection with any of the foregoing items of cost may be regarded as a part of the cost.

"Municipality" means any county, city, town, authority, commission, or other public entity.

"Public facility" means (i) any auditorium, coliseum, convention center, or conference center, which is owned by a Virginia county, city, town, authority, or other public entity and where exhibits, meetings, conferences, conventions, seminars, or similar public events may be conducted; (ii) any hotel which is owned by a foundation whose sole purpose is to benefit a state-supported university and which is attached to and is an integral part of such facility, together with any lands reasonably necessary for the conduct of the operation of such events; or (iii) any hotel which is attached to and is an integral part of such facility. However, such public facility must be located in the City of Hampton, City of Newport News, City of Norfolk, City of Portsmouth, City of Roanoke, City of Salem, City of Staunton, or City of Suffolk. Any property, real, personal, or mixed, which is necessary or desirable in connection with any such auditorium, coliseum, convention center, or conference center, including, without limitation, facilities for food preparation and serving, parking facilities, and administration offices, is encompassed within this definition. However, structures commonly referred to as "shopping centers" or "malls" shall not constitute a public facility hereunder. A public facility shall not include residential condominiums, townhomes, or other residential units. In addition, only a new public facility, or a public facility which will undergo a substantial and significant renovation or expansion, shall be eligible under subsection B of this section. A new public facility is one whose construction began after December 31, 1991. A substantial and significant renovation entails a project whose cost is at least 50 percent of the original cost of the facility being renovated and shall have begun after December 31, 1991. A substantial and significant expansion entails an increase in floor space of at least 50 percent over that existing in the preexisting facility and shall have begun after December 31, 1991; *or an increase in floor space of at least 10 percent over that existing in a public facility that qualified as such under this section and was constructed after December 31, 1991.*

"Sales tax revenues" means such tax collections realized under the Virginia Retail Sales and Use Tax Act (§ 58.1-600 et seq.) of this title, as limited herein. "Sales tax revenues" does not include the revenue generated by the one-half percent sales and use tax increase enacted by the 1986 Special Session of the General Assembly which shall be paid to the Transportation Trust Fund as defined in § 33.1-23.03:1, nor shall it include the one percent of the state sales and use tax revenue distributed among the counties and cities of the Commonwealth pursuant to subsection D of § 58.1-638 on the basis of school age population.

B. Any municipality which has issued bonds (i) after December 31, 1991, but before January 1,

60 1996, (ii) on or after January 1, 1998, but before July 1, 1999, (iii) on or after January 1, 1999, but
61 before July 1, 2001, (iv) on or after July 1, 2000, but before July 1, 2003, (v) on or after July 1, 2001,
62 but before July 1, 2005, ~~or~~ (vi) on or after July 1, 2004, but before July 1, 2007, *or (vii) on or after*
63 *July 1, 2009, but before July 1, 2011*, to pay the cost, or portion thereof, of any public facility shall be
64 entitled to all sales tax revenues generated by transactions taking place in such public facility. Such
65 entitlement shall continue for the lifetime of such bonds, which entitlement shall not exceed 35 years,
66 and all such sales tax revenues shall be applied to repayment of the bonds. The State Comptroller shall
67 remit such sales tax revenues to the municipality on a quarterly basis, subject to such reasonable
68 processing delays as may be required by the Department of Taxation to calculate the actual net sales tax
69 revenues derived from the public facility. The State Comptroller shall make such remittances to eligible
70 municipalities, as provided herein, notwithstanding any provisions to the contrary in the Virginia Retail
71 Sales and Use Tax Act (§ 58.1-600 et seq.). No such remittances shall be made until construction is
72 completed and, in the case of a renovation or expansion, until the governing body of the municipality
73 has certified that the renovation or expansion is completed.

74 C. Nothing in this section shall be construed as authorizing the pledging of the faith and credit of the
75 Commonwealth of Virginia, or any of its revenues, for the payment of any bonds. Any appropriation
76 made pursuant to this section shall be made only from sales tax revenues derived from the public
77 facility for which bonds may have been issued to pay the cost, in whole or in part, of such public
78 facility.