DEPARTMENT OF TAXATION
2012 Fiscal Impact Statement

1. Patron Israel D. O'Quinn

2. Bill Number HB 1116

House of Origin:
_____ **Introduced**
_____ **Substitute**
_____ **Engrossed**

Second House:
_____ **In Committee**
_____ **Substitute**
X **Enrolled**

3. Committee Passed by House and Senate

4. Title Retail Sales and Use Tax; Entitlement to Sales Tax Revenue, City of Bristol

5. Summary/Purpose:

This bill would provide that development projects that meet the requirements for a development of regional impact and that are located in the City of Bristol are entitled to a portion of the sales tax revenues generated by such projects, in order to pay the costs of bonds issued pursuant to the project. In order to be deemed a development of regional impact, the development project would need to meet the following criteria: 1) the locality contributes infrastructure or real property towards the project as part of a public-private partnership with the developer that is equal to at least 20 percent of the aggregate cost of development; 2) the facility is reasonably expected to require a capital investment of at least $50 million; 3) sales within the development are reasonably expected to generate at least $5 million annually; 4) the facility is reasonably expected to attract at least one million visitors annually; 5) the facility is expected to create at least 2,000 permanent jobs; 6) the facility is in a locality that had a rate of unemployment at least three percentage points higher than the statewide average in November 2011; and 7) the facility is in a locality that is adjacent to a state that has adopted a Border Region Retail Tourism Development District Act. The bill would also require the Department to review the locality's findings concerning the development of regional impact requirements and to provide a written report to the Chairmen of the House and Senate Finance Committees and the House Appropriations Committee within 30 days from the date the locality provides notification that it intends to contribute infrastructure or real property as part of a public-private partnership with the developer of a development of regional impact.

Under current law, any municipality which has issued bonds during a specified time period to pay the cost of any public facility is entitled to a portion of the sales tax revenues generated by transactions taking place in the public facility.

The effective date of this bill is not specified.

6. Budget amendment necessary: No.

7. Fiscal Impact Estimates are: Not available. (See Line 8.)

8. Fiscal implications:

Administrative Costs

The Department would incur no administrative costs in implementing this bill. The Department anticipates that it can complete the required report with existing resources.

Revenue Impact

The introduced Executive Budget allocates currently undedicated Retail Sales and Use Tax revenues from the General Fund to the Highway Maintenance and Operating Fund ("HMOF") beginning July 1, 2012. The revenue impact of this bill assumes passage of the introduced Executive Budget.

The sales tax revenues diverted to a municipality consists of the 2 ½% General Fund portion of the sales tax and the 1% local option tax. Because the 1% local option tax is already transferred to localities under current law, transfer of the 1% local option tax does not affect state revenue. The ½% portion dedicated to the Transportation Trust Fund and the 1% distributed to localities based on school-age population are not affected.

The changes proposed in this bill would result in a decrease in state revenue, the magnitude of which is unknown, but could potentially be $2.5 million or more annually, assuming one or more facilities in the City of Bristol meet the bill's limiting requirement that the facility be reasonably expected to generate at least $5 million in state sales and use taxes annually.

Currently, there are ten public facilities in Virginia, which collectively retained approximately $440,468 in Fiscal Year 2011. Given the nature of the public facility to which this bill would apply, the amount of sales taxes generated and transferred to the City of Bristol likely would be substantially more than the taxes generated in the ten public facilities currently in Virginia. Because the amount of potential sales revenue a facility fitting the expanded definition would retain could not be determined, the magnitude of the revenue loss is unknown.

9. Specific agency or political subdivisions affected:

Department of Accounts
Department of Taxation
City of Bristol

10. Technical amendment necessary: No.

11. Other comments:

Current Law

Va. Code § 58.1-608.3 (formerly the Public Facilities Act) allows sales tax revenue attributable to sales in new or substantially and significantly renovated or expanded public facilities to be transferred back to municipalities to pay the costs of the bonds issued to finance such facilities. Qualifying public facilities include auditoriums, coliseums, convention centers, conference centers, and certain hotels and sports facilities located in the Cities of Hampton, Newport News, Norfolk, Portsmouth, Richmond, Roanoke, Salem, Staunton, Suffolk and Virginia Beach. Currently, shopping centers and malls do not qualify for the public facility designation.

Under current law, the sales tax revenue can be used to pay the following costs for which bonds are issued: 1) the purchase price of the public facility; 2) expenses incident in determining the feasibility or practicability of the public facility; 3) the costs of plans, specifications, surveys and estimates of costs and revenues; 4) the cost of land, property, rights, easements, and franchises acquired; 5) the costs of improvement, property or equipment; 6) the cost of engineering, legal, and other professional services; 7) the cost of construction or reconstruction; 8) the costs of labor, materials, machinery and equipment; 9) financing charges; 10) interest before and during construction and for up to one year after completion of construction; 11) start-up costs and operating capital (12) payments by the locality of its share of the cost of any multijurisdictional public facility; 13) administrative expenses; 14) amounts deposited to reserve or replacement funds; and 15) other necessary expenses.

Under current law, a substantial and significant expansion to a public facility entails an increase in floor space of at least 50 percent over that existing in the preexisting facility or an increase in floor space of at least 10 percent over that existing in a currently qualifying public facility.

Sales tax revenues generated from all transactions taking place in the facility, including, but not limited to, concessionaires sales, vending machine sales, and merchandise sales, are transferred back to the municipality. Entitlement to these sales tax revenues continues for the lifetime of the bonds, but not beyond 35 years, and all such revenues are required to be applied to the repayment of the bonds. No remittance is made until construction of the facility is complete.

Legislative History

As originally enacted in 1992, this transfer mechanism applied only to one facility in the City of Roanoke. The 1998 General Assembly amended the population requirements to include the City of Portsmouth, and in 1999, the population requirements were again amended to include the City of Suffolk. The General Assembly in 2000 amended the population requirements to include the City of Hampton, in 2001 to include the City of Staunton, in 2004 to include the City of Newport News and the City of Salem, in 2006 to include the City of Norfolk, and in 2009 to include the City of Richmond and the City of Virginia Beach.

The definition for public facility was expanded in 1998 to include hotels which are attached to and are an integral part of the public facility, in 2006 to exclude residential condominiums, townhomes, or other residential units, in 2009 to include sports facilities designed for use primarily as a baseball stadium for a minor league professional baseball affiliated team, and in 2011 to hotels that are adjacent to convention centers owned by public entities where the hotel owners enter into a public-private partnership requiring the locality to contribute infrastructure, real property or conference space.

Border Region Retail Tourism Development District Act

This law was enacted in Tennessee in order to increase tourism and the competitiveness of Tennessee with bordering states by empowering local governments to encourage the development of retail or tourism facilities, including shopping, recreational, and other activities. The Act provides that if a municipality bordering a neighboring state "finances, constructs, leases, equips, renovates, assists, incents, or acquires an extraordinary retail or tourism facility or a project" in a certified border region retail tourism development district, a portion of the Tennessee sales and use tax revenue distributed to the municipality must be used to pay the cost of the economic development project.

Proposal

This bill would provide that development projects that meet the requirements for a development of regional impact and that are located in the City of Bristol are entitled to a portion of the sales tax revenues generated by such projects, in order to pay the costs of bonds issued pursuant to the project. In order to be deemed a development of regional impact, the development project would need to meet the following criteria: 1) the locality contributes infrastructure or real property towards the project as part of a public-private partnership with the developer that is equal to at least 20 percent of the aggregate cost of development; 2) the facility is reasonably expected to require a capital investment of at least $50 million; 3) sales within the development are reasonably expected to generate at least $5 million annually; 4) the facility is reasonably expected to attract at least one million visitors annually; 5) the facility is expected to create at least 2,000 permanent jobs; 6) the facility is in a locality that had a rate of unemployment at least three percentage points higher than the statewide average in November 2011; and 7) the facility is in a locality that is adjacent to a state that has adopted a Border Region Retail Tourism Development District Act. The bill would also require the Department to review the locality's findings concerning the development of regional impact requirements and to provide a written report to the Chairmen of the House and Senate Finance Committees and the House Appropriations Committee within 30 days from the date the locality provides notification that it intends to contribute infrastructure or real property as part of a public-private partnership with the developer of a development of regional impact.

The effective date of this bill is not specified.

Similar Legislation

Senate Bill 607 is identical to this bill.

Senate Bill 684 would add the City of Winchester and the City of Lynchburg to the list of localities that are entitled to sales and use tax revenues generated at certain public facilities for the repayment of bonds related to the public facilities.

cc : Secretary of Finance

Date: 3/5/2012 KP
DLAS File Name: HB1116FER161