DEPARTMENT OF TAXATION
2013 Fiscal Impact Statement

1. Patron Charles W. Carrico, Sr.

2. Bill Number SB 861

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

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

3. Committee Senate Finance

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

5. Summary/Purpose:

This bill would authorize qualifying public facilities in the City of Bristol eligible to receive certain sales tax revenues, to receive their portion of sales tax revenues generated by the facilities prior to completion of the construction, renovation or expansion of the facility. Under the terms of the bill, the Comptroller would be authorized to remit the sales tax revenues generated in the public facility as soon as the governing body of the City of Bristol certifies that a business license has been issued to an occupant of the facility, despite the fact that construction, renovation, or expansion of the entire facility is not complete.

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. Development projects that meet the requirements for a development of regional impact and that are located in the City of Bristol are specifically deemed “public facilities” that 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. Current law prohibits the state Comptroller from making remittances to the municipalities until construction, renovation, or expansion is completed.

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 Impact

The Department considers implementation of this bill as “routine” and does not require additional funding.

Revenue Impact

The sales tax revenues diverted to a municipality consist 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 General Fund revenue loss associated with the provisions of this bill is unknown, as it is not clear what type or how many businesses will operate in Bristol's public facility, and the date on which those businesses will begin operating. The legislation enacted during the 2012 General Assembly session, which expanded the definition of public facilities to include development projects in the City of Bristol that meet certain requirements committed the tax revenues upon completion of certain project milestones. This bill would allow the locality to begin collecting those tax revenues sooner.

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, Lynchburg, Newport News, Norfolk, Portsmouth, Richmond, Roanoke, Salem, Staunton, Suffolk, Virginia Beach, and Winchester. Generally, 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.

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. Sales tax revenues do not include any tax revenues generated from the purchase or use of materials and equipment utilized in the construction, expansion, or renovation of a qualifying public facility.

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. Currently, no remittance is made until construction, renovation or expansion of the facility is complete.

City of Bristol

In 2012, the Virginia General Assembly enacted legislation that expanded the definition of public facilities for purposes of the sales tax entitlement to include development projects that meet the requirements for a development of regional impact and are located in the City of Bristol. In order to be deemed a development of regional impact, the development project must 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.

Additional 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.

Proposal

This bill would authorize qualifying public facilities in the City of Bristol eligible to receive certain sales tax revenues, to receive their portion of sales tax revenues generated by the facilities prior to completion of the construction, renovation or expansion of the facility. Under the terms of the bill, the Comptroller would be authorized to remit the sales tax revenues generated in the public facility as soon as the governing body of the City of Bristol certifies that a business license has been issued to an occupant of the public facility, despite the fact that construction of the entire facility is not complete.

As under current law, the sales tax revenues generated from all transactions taking place in the facility would be transferred back to the municipality. Sales tax revenues do not include any tax revenues generated from the purchase or use of materials and equipment utilized in the construction, expansion, or renovation of a qualifying public facility.

The effective date of this bill is not specified.

cc : Secretary of Finance

Date: 1/12/2013 KP
DLAS File Name: SB861F161