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HOUSE BILL NO. 593

Offered January 8, 2014

Prefiled January 7, 2014

A BILL to amend and reenact § 58.1-608.3 of the Code of Virginia, relating to sales and use tax; distribution of certain revenue.

Patrons—O'Quinn, Chafin, Kilgore, Campbell, Rush and Yost

Referred to Committee on Finance

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, sports facility that is designed for use primarily as a baseball stadium for a minor league professional baseball affiliated team or structures attached thereto, 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; (iii) any hotel which is attached to and is an integral part of such facility; or (iv) any hotel that is adjacent to a convention center owned by a public entity and where the hotel owner enters into a public-private partnership whereby the locality contributes infrastructure, real property, or conference space. However, such public facility must be located in the City of Fredericksburg, City of Hampton, City of Lynchburg, City of Newport News, City of Norfolk, City of Portsmouth, City of Richmond, City of Roanoke, City of Salem, City of Staunton, City of Suffolk, City of Virginia Beach, City of Winchester, or Town of Wise. Any property, real, personal, or mixed, which is necessary or desirable in connection with any such auditorium, coliseum, convention center, baseball stadium 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 C. 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.

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59 "Sales tax revenues" means such tax collections realized under the Virginia Retail Sales and Use Tax
60 Act (§ 58.1-600 et seq.), as limited herein. "Sales tax revenues" does not include the revenue generated
61 by (i) the 0.5 percent sales and use tax increase enacted by the 1986 Special Session of the General
62 Assembly which shall be paid to the Transportation Trust Fund as defined in § 33.1-23.03:1, (ii) the 1.0
63 percent of the state sales and use tax revenue distributed among the counties and cities of the
64 Commonwealth pursuant to subsection D of § 58.1-638 on the basis of school age population, or (iii)
65 any sales and use tax revenues generated by increases or allocation changes imposed by the 2013
66 Session of the General Assembly. For a public facility that is a sports facility, "sales tax revenues" shall
67 include such revenues generated by transactions taking place upon the premises of a baseball stadium or
68 structures attached thereto.

69 B. 1. Notwithstanding the definition of "public facility" provisions in subsection A, a development
70 project that meets the requirements for a "development of regional impact" set forth herein shall be
71 deemed to be a public facility under the provisions of this section. ~~The~~ A locality in which the public
72 facility is located shall be entitled to all sales tax revenues generated by transactions taking place at such
73 public facility *within such locality* solely to pay the cost of any bonds issued to pay the cost, or portion
74 thereof, of such public facility pursuant to ~~subsection C subdivision C 2~~. For purposes of this subsection,
75 the development of regional impact ~~must~~ *may include structures commonly referred to as "shopping*
76 *centers" or "malls" and shall be located in the City of Bristol a city, or city and county, that as*
77 *applicable (i) has a portion of Interstate 81 within its boundary; (ii) if a city, then it had a rate of*
78 *unemployment at least three percentage points higher than the Commonwealth of Virginia average in*
79 *November 2011, or if a county, then it had a rate of unemployment higher than the Commonwealth of*
80 *Virginia average for 2011 and that adjoins such city; and (iii) borders a state that has adopted*
81 *legislation to increase tourism and the competitiveness of the border state with Virginia by empowering*
82 *localities in the border state to encourage development of extraordinary retail or tourism facilities,*
83 *including shopping, recreational, and other activities, by apportionment and distribution of state sales*
84 *and use tax revenue to municipalities located in the border state to pay the cost of developing such*
85 *facilities. Any area within a county shall be part of a development of regional impact only if it is*
86 *designated by agreement, as provided in subdivision 3, as an area to be added to a development of*
87 *regional impact that has already been established in an adjoining city. The total land area in a county*
88 *that may be so designated as part of a development of regional impact shall not exceed 200 acres in the*
89 *aggregate.*

90 2. For purposes of this subsection, a "development of regional impact" means a development project
91 *located in a city, or city and county, as described in subdivision 1, and (i) towards which the locality*
92 *municipality contributes infrastructure or real property as part of a public-private partnership with the*
93 *developer or developers that is equal to at least 20 percent of the aggregate cost of development, (ii)*
94 *that is reasonably expected to require a capital investment of at least \$50 million, (iii) that is reasonably*
95 *expected to generate at least \$5 million annually in state sales and use tax revenue from sales within the*
96 *development, (iv) that is reasonably expected to attract at least one million visitors annually, and (v) that*
97 *is reasonably expected to create at least 2,000 permanent jobs; (vi) that is located in a locality that had a*
98 *rate of unemployment at least three percentage points higher than the statewide average in November*
99 *2011, and (vii) that is located in a locality that is adjacent to a state that has adopted a Border Region*
100 *Retail Tourism Development District Act. Within 30 days from the date of notification by a locality*
101 *municipality that it intends to contribute infrastructure or real property as part of a public-private*
102 *partnership with the developer of a development of regional impact, the Department of Taxation shall*
103 *review the findings of the locality municipality with respect to clauses (i) through (vi) (v) and shall file*
104 *a written report with the Chairmen of the House Committee on Finance, the House Committee on*
105 *Appropriations, and the Senate Committee on Finance.*

106 3. Any county that meets the criteria set forth in clauses (i) through (iii) of subdivision 1 may enter
107 into an agreement with any adjoining city in which a development of regional impact has already been
108 established in order to expand the development of regional impact to include certain areas in the city,
109 county, or city and county, as designated in such agreement. However, any area or areas within the
110 county that are added to a development of regional impact pursuant to this subdivision shall not be
111 larger in the aggregate than 200 acres and shall be located within three miles of such development of
112 regional impact. Upon execution of such agreement, the localities shall notify the Department of
113 Taxation of the area or areas to be added to the original development of regional impact. Upon receipt
114 of such notice, such additional area or areas shall be deemed to be part of the original development of
115 regional impact as described in subdivision 2 without requiring that the additional area or areas
116 independently satisfy the criteria in clauses (i) through (v) of subdivision 2 and without requiring any
117 further action by the Department of Taxation. Any written reports by the Department of Taxation
118 indicating that a locality has complied with the notification requirements of this subsection and that
119 have been filed as provided in subdivision 2 shall be deemed conclusive evidence that the requirements
120 for a development of regional impact have been satisfied.

C. 1. Any municipality which has issued bonds (i) after December 31, 1991, but before January 1, 1996, (ii) on or after January 1, 1998, but before July 1, 1999, (iii) on or after January 1, 1999, but before July 1, 2001, (iv) on or after July 1, 2000, but before July 1, 2003, (v) on or after July 1, 2001, but before July 1, 2005, (vi) on or after July 1, 2004, but before July 1, 2007, (vii) on or after July 1, 2009, but before July 1, 2012, (viii) on or after January 1, 2011, but prior to July 1, 2015, or (ix) on or after January 1, 2013, but prior to July 1, 2017, to pay the cost, or portion thereof, of any public facility shall be entitled to all sales tax revenues generated by transactions taking place in such public facility. Such entitlement shall continue for the lifetime of such bonds, which entitlement shall not exceed 35 years, and all such sales tax revenues shall be applied to repayment of the bonds. The State Comptroller shall remit such sales tax revenues to the municipality on a quarterly basis, subject to such reasonable processing delays as may be required by the Department of Taxation to calculate the actual net sales tax revenues derived from the public facility. The State Comptroller shall make such remittances to eligible municipalities, as provided herein, notwithstanding any provisions to the contrary in the Virginia Retail Sales and Use Tax Act (§ 58.1-600 et seq.). No such remittances shall be made until construction is completed and, in the case of a renovation or expansion, until the governing body of the municipality has certified that the renovation or expansion is completed.

2. *In the case of a development of regional impact, when any municipality has issued bonds on or after January 1, 2012, but prior to December 31, 2020, to pay the cost, or a portion thereof, of any development of regional impact, the city or county in which all or any part of such development is located shall be entitled to all sales tax revenues generated by transactions taking place within any part of such development located within such city or county. Such entitlement shall continue for the lifetime of such bonds, which entitlement shall not exceed 35 years, and all such sales tax revenues shall be applied to repayment of the bonds and other costs incurred by the municipality in connection with the development of regional impact. The State Comptroller shall remit such sales tax revenues to the eligible city or county in which such revenue was generated, as provided herein, subject to such reasonable processing delays as may be required by the Department of Taxation to calculate the actual net sales tax revenues derived from that portion of the development of regional impact located in such city or county. The State Comptroller shall make such remittances to an eligible city or county, as provided herein, notwithstanding any provisions to the contrary in the Virginia Retail Sales and Use Tax Act (§ 58.1-600 et seq.). The Comptroller shall make such remittances on a quarterly basis beginning with the first quarter in which any sales tax revenue is generated by transactions taking place in any part of the development of regional impact, whether or not construction of all or any portion, phase, or building of the development project within the development of regional impact has been completed.*

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