DEPARTMENT OF TAXATION
2014 Fiscal Impact Statement

1. Patron Isreal D. O'Quinn

2. Bill Number HB 593

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

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

3. Committee House Finance

4. Title Retail Sales and Use Tax; Entitlement to Sales Tax Revenues; City of Bristol and Washington County

5. Summary/Purpose:

This bill would expand the current "development of regional impact" in the City of Bristol that qualifies for the public facility entitlement to include up to 200 acres in Washington County. The additional area would need to be designated as part of the development of regional impact by agreement between Washington County and the City of Bristol, and would need to be located within three miles of the current development of regional impact. The expansion would entitle Washington County to a portion of the sales tax revenues generated in facilities in the additional designated area. Any existing retail establishments in a development of regional impact would not be included, unless the existing establishment relocates from the location it occupied on January 1, 2014.

The bill would also extend the time period during which eligible localities may issue bonds to fund a development of regional impact in order to qualify for the sales tax revenue entitlement to include bonds issued on or after January 1, 2012, but prior to December 31, 2020. In addition, the bill would require that the Comptroller make remittances of any sales taxes generated in qualifying developments of regional impact on a quarterly basis, beginning with the first quarter in which any sales tax revenue is generated, regardless of whether construction of the project has been completed.

Finally, the bill would specify that the sales tax entitlement for public facilities and the development of regional impact continues for either the lifetime of the bonds or any refinancing or refunding of the bonds, but would, in no event, exceed 35 years from the initial date that bonds were issued to fund the costs of the facility or 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. 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.

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 of Taxation (“the Department”) considers implementation of this bill as “routine,” and does not require additional funding.

   Revenue Impact

   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 would be located in the area of Washington County that qualifies as a development of regional impact, 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 generated in the City of Bristol. The expansion to include the designated area in Washington County would result in an additional loss of sales and use tax revenue.

   The public facility sales tax entitlement to a municipality consists of the General Fund portion of the sales tax available for appropriation after accounting for transfers to the Transportation Trust Fund, localities according to school-age population, and the Public Education Standards of Quality/Real Estate Property Tax Relief Fund. The revenue resulting from the sales tax rate increases and other allocation changes provided for in 2013 House Bill 2313 are not included in the entitlement. 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.

9. **Specific agency or political subdivisions affected:**

   Department of Accounts
   Department of Taxation
   City of Bristol
   Washington County

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 Town of Wise and the Cities of Fredericksburg, 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 revenues can be distributed back to localities and used to pay the following costs for which bonds have been 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.

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 Cities of Newport News and Salem, and in 2006 to include the City of Norfolk. Legislation in 2009 added the Cities of Richmond and Virginia Beach, in 2012, the Cities of Lynchburg and Winchester, and in 2013 the City of Fredericksburg and the Town of Wise.

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 include 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.

City of Bristol, Development of Regional Impact

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. The legislation was intended to address a commercial center that would be constructed in the City of Bristol, known as "The Falls." The statute requires that a development of regional impact 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 statute requires the Department to review the locality's findings as to these criteria and to file a written report with the House and Senate Finance and Appropriation Committees. Pursuant to the statute, on February 21, 2013, the Department released its report, indicating that the City of Bristol had complied with the statute's notification requirements.

County of Washington

During the 2013 Virginia General Assembly session, Washington County unsuccessfully sought legislation that would have expanded the City of Bristol's development of regional impact and the corresponding sales tax revenue entitlement to development projects located in Washington County that otherwise met the statutory requirements for a development of regional impact. Neither of the introduced bills made it out of the respective Finance committees.

Washington County and the City of Bristol have since reached an agreement to jointly introduce legislation expanding the boundaries of the development of regional impact within the City of Bristol to include designated parcels in Washington County.

Proposal

This bill would allow an extension of the sales tax entitlement currently available to public facilities in the City of Bristol that meet the requirements of a development of regional impact to include any area in Washington County designated as such by agreement between Washington County and the City of Bristol. Under the bill's terms, the development would need to be located in either a city or city and county that: 1) has a portion of Interstate 81 within its boundary; 2) is a city that had a rate of unemployment at least three percentage points higher than Virginia's average in November 2011 or is a county that had a rate of unemployment higher than Virginia's average for 2011 and that adjoins such city; and 3) borders a state that has adopted legislation allowing apportionment and distribution of state sales and use tax revenue to municipalities located in the border state to pay the cost of developing extraordinary retail or tourism facilities. Thus, the development would need to be located in either the City of Bristol or the County of Washington.

The bill would allow Washington County to enter into an agreement with the City of Bristol to expand the development of regional impact to include certain areas in the city, county, or city and county, provided that areas in Washington County that are added to the development of regional impact are not larger in the aggregate than 200 acres, and are located within three miles of the development of regional impact. The expanded development of regional impact would not include any existing retail establishments located in a development of regional impact, unless the existing establishment relocates from the location it occupied on January 1, 2014. Once the agreement has been executed, Washington County and the City of Bristol would need to inform the Department of Taxation of the areas that will be added to the original development of regional impact. These areas would then be deemed part of the original development of regional impact, thus entitling Washington County to its portion of sales tax revenues generated in the designated area. Washington County would not need to satisfy any additional criteria.

The bill would also extend the time period during which eligible localities may issue bonds that will fund a development of regional impact in order to qualify for the public facility entitlement to include bonds issued on or after January 1, 2012, but prior to December 31, 2020.

In addition, the bill would require that the State Comptroller make remittances of any sales taxes generated in qualifying developments of regional impact 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, regardless of whether construction of the project has been completed.

Finally, the bill would specify that the sales tax entitlement for public facilities and the development of regional impact continues for either the lifetime of the bonds or any refinancing or refunding of the bonds, but would, in no event, exceed 35 years from the initial date that bonds were issued to fund the costs of the facility or development of regional impact.

The effective date of this bill is not specified.

Similar Legislation

Senate Bill 214 is identical to this bill.

cc : Secretary of Finance

Date: 1/21/2014 KP
DLAS File Name: HB593F161