

VIRGINIA ACTS OF ASSEMBLY -- 2019 SESSION

CHAPTER 793

An Act to amend the Code of Virginia by adding in Title 15.2 a chapter numbered 59.2, consisting of sections numbered 15.2-5928 through 15.2-5934, relating to City of Virginia Beach; sports or entertainment project.

[S 1790]

Approved March 22, 2019

Be it enacted by the General Assembly of Virginia:

1. That the Code of Virginia is amended by adding in Title 15.2 a chapter numbered 59.2, consisting of sections numbered 15.2-5928 through 15.2-5934, as follows:

CHAPTER 59.2.

VIRGINIA BEACH SPORTS OR ENTERTAINMENT PROJECT.

§ 15.2-5928. Definitions.

As used in this chapter, unless the context requires a different meaning:

"City" or "City of Virginia Beach" means the City of Virginia Beach or the City of Virginia Beach Development Authority.

"Sales and use tax revenues" means tax collections under the Virginia Retail Sales and Use Tax Act (§ 58.1-600 et seq.), as limited herein, generated by transactions taking place upon the premises of a sports or entertainment project, including transactions generating revenues in connection with the development and construction of such project that would not be generated but for the existence of such project. For purposes of this chapter, "sales and use tax revenues" does not include the revenue generated by (i) the one-half percent sales and use tax increase enacted by Chapters 11, 12, and 15 of the Acts of Assembly of 1986, Special Session I, which shall be paid into the Transportation Trust Fund as defined in § 33.2-1524; (ii) 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; and (iii) the additional state sales and use tax in certain counties and cities assessed pursuant to Chapter 766 of the Acts of Assembly of 2013 and any amendments thereto.

"Sports and entertainment district" means the geographic area in the City of Virginia Beach located south of 21st Street, north of Norfolk Avenue, east of Birdneck Road, and west of Atlantic Avenue.

"Sports or entertainment project" means a project including sports facilities, entertainment facilities, or both, representing at least \$100 million of investment in the sports and entertainment district of the City of Virginia Beach, including any office, restaurant, concessions, retail, residential, and lodging facilities that are owned and operated adjacent to or in connection with such sports or entertainment project; film and sound studios and any other sports or entertainment-related infrastructure; and any other directly related properties, including onsite and offsite parking lots, garages, and other properties. "Sports or entertainment project" includes multiple facilities located on multiple properties, provided that such facilities share a nexus of ownership or management.

§ 15.2-5929. Powers.

In addition to all other powers it possesses, the City of Virginia Beach may:

1. Determine the locations of, develop, establish, construct, erect, acquire, own, repair, remodel, add to, extend, improve, equip, operate, regulate, and maintain a sports or entertainment project to the extent necessary to accomplish the purposes of this chapter;

2. Operate, enter into contracts for the operation of, and regulate the use and operation of a sports or entertainment project developed under the provisions of this chapter;

3. Fix and revise from time to time and charge and collect rates, rents, fees, ticket surcharges, or other charges for the use of a sports or entertainment project or for services rendered in connection with a sports or entertainment project;

4. Issue bonds under this chapter; and

5. Do all things necessary or convenient to carry out the powers granted by this chapter.

§ 15.2-5930. Public hearings; notice; reports.

A. At least 30 days before execution of a binding development agreement for a sports or entertainment project, the City of Virginia Beach shall submit to the General Assembly a detailed written report and findings of the City on the proposed agreement. The report and findings shall include a detailed plan of the method of funding and the economic benefits of the proposed agreement.

B. The State Treasurer shall be provided with copies of all documents relating to the proposed issuance of any bonds pursuant to § 15.2-5931 sufficiently in advance of such bond issue to conduct such reviews as the State Treasurer deems necessary. Such reviews shall be completed within 120 days after the date that the Treasurer is provided such documents. In the event that the Commonwealth is an obligated person determined to be material to an evaluation of the offering for which financial

information will be included or referenced in the offering document in accordance with Securities and Exchange Commission Rule 15c 2-12 under the federal Securities Exchange Act of 1934, or in the event that in the opinion of the State Treasurer, with the concurrence of the Debt Capacity Advisory Committee established under Article 5 (§ 2.2-2712 et seq.) of Chapter 27 of Title 2.2, such bond issue will be considered tax-supported debt of the Commonwealth or have an adverse impact on the debt capacity or the credit ratings of the Commonwealth, such bond issue must be authorized by the General Assembly.

§ 15.2-5931. Bond issues.

A. The City of Virginia Beach may at any time and from time to time issue bonds for any valid purpose, including the establishment of reserves and the payment of interest. As used in this chapter, "bonds" includes notes of any kind, interim certificates, refunding bonds, or any other evidence of obligation.

B. The bonds of any issue shall be payable solely from the property or receipts of the City of Virginia Beach, or other security specifically pledged by the City of Virginia Beach to the payment thereof, including, but not limited to:

1. Taxes, fees, charges, or other revenues;
2. Payments by financial institutions, insurance companies, or others pursuant to letters or lines of credit, policies of insurance, or purchase agreements;
3. Investment earnings from funds or accounts maintained pursuant to a bond resolution or trust agreement;
4. Sales and use tax revenues remitted to the City of Virginia Beach by the State Comptroller pursuant to § 15.2-5933; and
5. Proceeds of refunding bonds.

C. Bonds shall be authorized by resolution of the City of Virginia Beach and may be secured by a trust agreement by and between the City of Virginia Beach and a corporate trustee or trustees, which may be any trust company or bank having the powers of a trust company within or outside the Commonwealth. The bonds shall:

1. Be issued at, above, or below par value, for cash or other valuable consideration, and mature at a time or times, whether as serial bonds or as term bonds or both, not exceeding 20 years from their respective dates of issue;
2. Bear interest at the fixed or variable rate or rates determined by the method provided in the resolution or trust agreement;
3. Be payable at a time or times, in the denominations and form, and carry the registration and privileges as to conversion and for the replacement of mutilated, lost, or destroyed bonds as the resolution or trust agreement may provide;
4. Be payable in lawful money of the United States at a designated place;
5. Be subject to the terms of purchase, payment, redemption, refunding, or refinancing that the resolution or trust agreement provides; and
6. Be sold in the manner and upon the terms determined by the City of Virginia Beach, including private (negotiated) sale.

D. Any resolution or trust agreement may contain provisions that shall be a part of the contract with the holders of the bonds as to:

1. Pledging, assigning, or directing the use, investment, or disposition of receipts of the City of Virginia Beach or proceeds or benefits of any contract and conveying or otherwise securing any property rights;
 2. The setting aside of loan funding deposits, debt service reserves, capitalized interest accounts, cost of issuance accounts, and sinking funds, and the regulation, investment, and disposition thereof;
 3. Limitations on the purpose to which or the investments in which the proceeds of sale of any issue of bonds may be applied and restrictions to investments of revenues or bond proceeds in government obligations for which principal and interest are unconditionally guaranteed by the United States of America;
 4. Limitations on the issuance of additional bonds and the terms upon which additional bonds may be issued and secured and may rank on a parity with, or be subordinate or superior to, other bonds;
 5. The refunding or refinancing of outstanding bonds;
 6. The procedure, if any, by which the terms of any contract with bondholders may be altered or amended and the amount of bonds the holders of which must consent thereto, and the manner in which consent shall be given;
 7. Defining the acts or omissions that shall constitute a default in the duties of the City of Virginia Beach to bondholders and providing the rights or remedies of such holders in the event of a default, which may include provisions restricting individual right of action by bondholders;
 8. Providing for guarantees, pledges of property, letters of credit, or other security, or insurance for the benefit of bondholders; and
 9. Any other matter relating to the bonds that the City of Virginia Beach determines appropriate.
- E. No member of the governing body of the City of Virginia Beach nor any person executing the

bonds on behalf of the City of Virginia Beach shall be liable personally for the bonds or subject to any personal liability by reason of the issuance of the bonds.

F. The City of Virginia Beach may enter into agreements with agents, banks, insurers, any political subdivision of the Commonwealth, or others for the purpose of enhancing the marketability of, or as security for, its bonds.

G. A pledge by the City of Virginia Beach of its revenues as security for an issue of bonds shall be valid and binding from the time the pledge is made.

The revenues pledged shall immediately be subject to the lien of the pledge without any physical delivery or further act, and the lien of any pledge shall be valid and binding against any person having any claim of any kind in tort, contract, or otherwise against the City of Virginia Beach, irrespective of whether the person has notice.

No resolution, trust agreement or financing statement, continuation statement, or other instrument adopted or entered into by the City of Virginia Beach need be filed or recorded in any public record other than the records of the City of Virginia Beach in order to perfect the lien against third persons, regardless of any contrary provision of public general or public local law.

H. Except to the extent restricted by an applicable resolution or trust agreement, any holder of bonds issued under this chapter or a trustee acting under a trust agreement entered into under this chapter may, by any suitable form of legal proceedings, protect and enforce any rights granted under the laws of the Commonwealth or by any applicable resolution or trust agreement.

I. The City of Virginia Beach may issue bonds to refund any of its bonds then outstanding, including the payment of any redemption premium and any interest accrued or to accrue to the earliest or any subsequent date of redemption, purchase, or maturity of the bonds. Refunding bonds may be issued for the public purposes of realizing savings in the effective costs of debt service, directly or through a debt restructuring, for alleviating impending or actual default and may be issued in one or more series in an amount in excess of that of the bonds to be refunded.

§ 15.2-5932. Sports or Entertainment Project Financing Fund; use.

A. The City of Virginia Beach may, in its discretion, create a Sports or Entertainment Project Financing Fund, hereafter referred to as "the Fund." The City of Virginia Beach may use the Fund as a non-lapsing revolving fund for the purposes of carrying out the provisions of this chapter and providing security for any bonds issued under this chapter.

B. All of the following receipts of the City of Virginia Beach may be placed in the Fund: (i) proceeds from the sale of bonds, (ii) revenues collected or received from any source under the provisions of this chapter, (iii) sales and use tax revenues remitted to the City of Virginia Beach by the State Comptroller pursuant to § 15.2-5933, and (iv) any other revenues under the jurisdiction of the City of Virginia Beach.

C. The City of Virginia Beach may pay expenses and make expenditures from the Fund. To the extent deemed appropriate by the City of Virginia Beach, the receipts of the Fund may be pledged to and charged with the payment of debt service on City of Virginia Beach bonds and all reasonable charges and expenses related to the City borrowing and the management of the City's obligations.

§ 15.2-5933. Entitlement to tax revenues derived from the operation of facilities.

A. 1. Upon execution of a binding development agreement for a sports or entertainment project, the City of Virginia Beach shall be entitled, subject to appropriation, to sales and use tax revenues defined in this chapter. The State Comptroller shall remit such sales and use tax revenues to the City of Virginia Beach on a quarterly basis, subject to such reasonable processing delays as may be required by the Department of Taxation. The State Comptroller shall make such remittances to the City of Virginia Beach, as provided herein, notwithstanding any provisions to the contrary in the Virginia Retail Sales and Use Tax Act (§ 58.1-600 et seq.).

2. Any entitlement of the City of Virginia Beach to receive sales and use tax revenues pursuant to the provisions of this chapter shall expire on July 1, 2039.

B. The local governing body of the City of Virginia Beach may, by ordinance or resolution, fix and revise from time to time and charge and collect rates, rents, fees, ticket surcharges, or other charges for a sports or entertainment project and any temporary sports or entertainment project developed under the provisions of this chapter.

C. If a sports and entertainment project qualifies for entitlement to sales and use tax revenues pursuant to the provisions of § 58.1-3851.1 or 58.1-3851.2, the City of Virginia Beach shall remain eligible to receive sales and use tax revenues pursuant to the provisions of this chapter; however, the amount received pursuant to this chapter shall be reduced by the amount received pursuant to the provisions of § 58.1-3851.1 or 58.1-3851.2.

§ 15.2-5934. Tax revenues of the Commonwealth or any other political subdivision not pledged.

Nothing in this chapter shall be construed as authorizing the pledging of the faith and credit of the Commonwealth, or the faith and credit of any other political subdivision of the Commonwealth, for the payment of any bonds. No bonds issued pursuant to § 15.2-5931 shall pledge the full faith and credit of the Commonwealth, nor shall such bonds constitute a debt of the Commonwealth, and the bonds shall so state on their face. Bondholders shall have no recourse whatsoever against the Commonwealth for the

payment of principal, interest, or redemption premium, if any, on such bonds.

2. That the Tax Commissioner shall report to the Chairmen of the Senate Committee on Finance, the House Committee on Finance, and the House Committee on Appropriations, annually prior to July 1, the amount of the entitlement pursuant to § 15.2-5933 of the Code of Virginia, as created by this act, provided that the City of Virginia Beach has executed a binding development agreement for a sports or entertainment project pursuant to § 15.2-5930 of the Code of Virginia, as created by this act.