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SENATE BILL NO. 559

Offered January 8, 2020

Prefiled January 7, 2020

A BILL to amend and reenact § 58.1-608.3 of the Code of Virginia, relating to entitlement to sales tax revenues from certain public facilities; authorized localities and facilities; sunset.

Patrons—Spreuill and Cosgrove

Referred to Committee on Finance and Appropriations

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, 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 baccalaureate public institution of higher education in the Commonwealth 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; (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; or (v) a sports complex consisting of a minor league baseball stadium and related tournament, training, and parking facilities, where a municipality owns a component of the sports complex; or (vi) any outdoor amphitheater, provided that a locality owns, wholly or partly, and contributes to financing the construction of such amphitheater. However, such public facility must be located in the City of Chesapeake, 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, sports complex, or conference center, including, without limitation, facilities for food preparation and serving, parking facilities, and office space, 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

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59 have begun after December 31, 1991; or an increase in floor space of at least 10 percent over that
60 existing in a public facility that qualified as such under this section and was constructed after December
61 31, 1991.

62 "Sales tax revenues" means such tax collections realized under the Virginia Retail Sales and Use Tax
63 Act (§ 58.1-600 et seq.), as limited herein. "Sales tax revenues" does not include the revenue generated
64 by (i) the 0.5 percent sales and use tax increase enacted by the 1986 Special Session of the General
65 Assembly which shall be paid to the Transportation Trust Fund as defined in § 33.2-1524, (ii) the 1.0
66 percent of the state sales and use tax revenue distributed among the counties and cities of the
67 Commonwealth pursuant to subsection D of § 58.1-638 on the basis of school age population, or (iii)
68 any sales and use tax revenues generated by increases or allocation changes imposed by the 2013
69 Session of the General Assembly.

70 B. Notwithstanding the definition of "public facility" in subsection A, a development project that
71 meets the requirements for a "development of regional impact" set forth herein shall be deemed to be a
72 public facility under the provisions of this section. The locality in which the public facility is located
73 shall be entitled to all sales tax revenues generated by transactions taking place at such public facility
74 solely to pay the cost of any bonds issued to pay the cost, or portion thereof, of such public facility
75 pursuant to subsection C. For purposes of this subsection, the development of regional impact must be
76 located in the City of Bristol.

77 For purposes of this subsection, a "development of regional impact" means a development project (i)
78 towards which the locality contributes infrastructure or real property as part of a public-private
79 partnership with the developer that is equal to at least 20 percent of the aggregate cost of development,
80 (ii) that is reasonably expected to require a capital investment of at least \$50 million, (iii) that is
81 reasonably expected to generate at least \$5 million annually in state sales and use tax revenue from sales
82 within the development, (iv) that is reasonably expected to attract at least one million visitors annually,
83 (v) that is reasonably expected to create at least 2,000 permanent jobs, (vi) that is located in a locality
84 that had a rate of unemployment at least three percentage points higher than the statewide average in
85 November 2011, and (vii) that is located in a locality that is adjacent to a state that has adopted a
86 Border Region Retail Tourism Development District Act. Within 30 days from the date of notification
87 by a locality that it intends to contribute infrastructure or real property as part of a public-private
88 partnership with the developer of a development of regional impact, the Department of Taxation shall
89 review the findings of the locality with respect to clauses (i) through (vi) and shall file a written report
90 with the Chairmen of the House Committee on Finance, the House Committee on Appropriations, and
91 the Senate Committee on Finance.

92 C. Any municipality which has issued bonds (i) after December 31, 1991, but before January 1,
93 1996, (ii) on or after January 1, 1998, but before July 1, 1999, (iii) on or after January 1, 1999, but
94 before July 1, 2001, (iv) on or after July 1, 2000, but before July 1, 2003, (v) on or after July 1, 2001,
95 but before July 1, 2005, (vi) on or after July 1, 2004, but before July 1, 2007, (vii) on or after July 1,
96 2009, but before July 1, 2012, (viii) on or after January 1, 2011, but prior to July 1, 2015, or (ix) on or
97 after January 1, 2013, but prior to July 1, 2020 2024, to pay the cost, or portion thereof, of any public
98 facility shall be entitled to all sales tax revenues generated by transactions taking place in such public
99 facility. In the case of a public facility described in clause (v) of the definition of public facility, all
100 such sales tax revenues shall be applied solely to repayment of the bonds issued to pay the cost, or
101 portion thereof, of the municipality-owned component of the sports complex. Such entitlement shall
102 continue for the lifetime of such bonds, or any refinancing or refunding thereof, but in no event shall
103 such entitlement exceed 35 years from the initial date that any bonds were issued to pay the cost, or a
104 portion thereof, of any public facility, and all such sales tax revenues shall be applied to repayment of
105 the bonds. The State Comptroller shall remit such sales tax revenues to the municipality on a quarterly
106 basis, subject to such reasonable processing delays as may be required by the Department of Taxation to
107 calculate the actual net sales tax revenues derived from the public facility. The State Comptroller shall
108 make such remittances to eligible municipalities, as provided herein, notwithstanding any provisions to
109 the contrary in the Virginia Retail Sales and Use Tax Act (§ 58.1-600 et seq.). No such remittances shall
110 be made until construction is completed and, in the case of a renovation or expansion, until the
111 governing body of the municipality has certified that the renovation or expansion is completed; however,
112 in the case of any public facility consisting of more than one building or structure, such remittances
113 shall be made on a quarterly basis beginning with the first quarter in which any sales tax revenue is
114 generated by transactions taking place at any building or structure within such public facility, whether or
115 not construction of all or any portion, phase, building, or structure of such public facility has been
116 completed.

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

121 facility.