

Department of Planning and Budget 2022 Fiscal Impact Statement

1. Bill Number: SB727

House of Origin Introduced Substitute Engrossed
Second House In Committee Substitute Enrolled

2. Patron: Saslaw

3. Committee: Finance and Appropriations

4. Title: Virginia Football Stadium Authority.

5. Summary: Establishes the Virginia Football Stadium Authority as a political subdivision charged with financing the construction of a football stadium and related facilities. The Authority is authorized to hire independent contractors, enter contracts, acquire property, borrow money, and exercise other similar powers. The Authority is exempt from the Personnel Act and the Public Procurement Act. The Authority may issue bonds with a maximum maturity date of 40 years.

The bill entitles the Authority to sales tax revenues from transactions at the stadium but would exclude certain revenues that current law dedicates to transportation and education. The bill also entitles the Authority to corporate income tax revenues from football teams that use the stadium and personal income tax revenues from income generated by employment or the conduct of business at the stadium. The Authority receives all corporate income tax revenues, but only 4.25 percent of personal income tax revenues. Remaining personal income tax revenues accrue to the general fund.

The Authority is made up of nine members appointed by the Governor and subject to confirmation by the General Assembly. Four of the nine members are appointed from a list chosen by the football team that primarily will use the stadium.

The bill enables localities to exercise their eminent domain power to acquire property and convey it to the Authority. It also authorizes localities to appropriate tax revenues to the Authority.

6. Budget Amendment Necessary: See Item 8.

7. Fiscal Impact Estimates: Preliminary and indeterminate.

8. Fiscal Implications: This fiscal impact statement is preliminary and will be updated as additional information becomes available. At this time, fiscal estimates are considered indeterminate.

This bill establishes the Virginia Football Stadium Authority (“VFSA”) as a political subdivision charged with financing the construction of a National Football League stadium,

including practice fields and offices for the team and offices, restaurants, concessions, retail and lodging facilities owned and operated in connection with the stadium, and other directly related properties, including parking and other properties located on a site specified by the primary team and consented to by the VFSA and the locality in which the site is located. The VFSA shall consist of nine members who shall be appointed by the Governor, who shall receive no compensation for their service but may be reimbursed by the Authority for reasonable expenses incurred in the performance of their duties. The bill authorizes the VSFA to hire employees and other such agents as may be necessary to effectuate the provisions of the bill. However, as written, the size and scope of the VSFA and its staffing needs are unknown.

The bill creates the Virginia Football Stadium Authority Financing Fund, which is required to be on the books of the State Comptroller. However, the new Authority is established as a political subdivision and may not have access to or have its expenditures recorded in the state's accounting system. A fiscal agent may be required to allow VSFA to administer the Fund. At this time, no fiscal agent has been identified; any costs associated with administering the Fund for VSFA are unknown.

According to the Department of Taxation (TAX), this bill may have an unknown but potentially significant negative impact to state revenues, as the VFSA would be entitled to all sales and use tax revenue generated at the stadium's "campus," which would include the stadium and proximate parcels that the county or city within which the property is located has included by ordinance in the campus with the exception of the following:

- The 1 percent tax allocated to localities for K-12 education
- The one-half percent tax dedicated to the Commonwealth Transportation Fund
- The 0.7 percent tax imposed in certain counties and cities for regional transportation purposes
- The additional one percent tax levied in the Historic Triangle region
- The one percent local option tax (unless so allocated by the locality)
- The additional one percent local tax levied by some localities for school construction and renovation.

The bill would also entitle the VFSA to all corporate income tax, pass-through entity tax, and personal income tax revenues generated at the stadium. Further, the bill exempts VFSA from all taxes or assessments of any kind, including any tax on its bonds or income derived from them.

According to the Department of Taxation (TAX), corporate income tax revenues would be estimated by the Tax Commissioner by multiplying the estimated tax payment of any corporation generating income at the stadium, including revenues generated in connection with the development and construction of the stadium, by the ratio of their gross revenues from such activities to their gross revenues from all activities in Virginia. Pass-through entity tax revenues would be estimated by the Tax Commissioner based on gross receipts from any pass-through entity generated at the stadium, including revenues generated in connection with the development and construction of the stadium. Personal income tax revenues would

be estimated by the Tax Commissioner based on salaries, wages, and other income generated through employment or the conduct of a trade or business within the stadium. The Tax Commissioner would calculate such revenues by multiplying such wages and salaries by 4.25 percent.

The eligibility of VSFA to receive such taxes begins as those initial taxes begin to be collected during development and construction and continue as necessary to cover eligible expenses of the Authority. TAX estimates that it will require one full-time employee at a cost of approximately \$85,000 from the general fund in order to determine the amounts of the income and retail sales and use tax entitlements. However, the date of this need is not known at this time.

In order to distribute income tax revenue, TAX would need to be provided sufficient information by VFSA, including tax identification numbers of every individual and business working at the stadium in order to identify their tax return. TAX would also need to be provided with sufficient information, such as gross receipts or duty days, for each individual or business in order to estimate the portion of their income that came from the stadium in order to calculate the tax entitlement. Without this information, TAX would be unable to make a distribution to VFSA regarding the individual or business. The income tax provisions of the bill may also present confidentiality issues for TAX due to laws prohibiting the sharing of personal taxpayer information.

The bill provides that VSFA may enter into a lease agreement for a term of at least 30 years and may issue bonds not to exceed 40 years from the issue date. However, any such lease agreements, contracts or proposed bond issuances must be submitted to the State Treasurer for review prior to execution or issuance. If the State Treasurer finds that the agreement or issuance would create a direct or contingent financial obligation of the Commonwealth or creates debt of the Commonwealth supported by state revenues, VSFA shall not be authorized to enter into such agreement or issue such bonds. VSFA is directed to include language in any such agreement that the primary team utilizing the stadium will not be relocated and that the primary team will operate within the facility until any bonds are redeemed or defeased. According to the Department of Treasury, there is no direct administrative fiscal impact to the department.

This bill may impact localities encompassing the stadium and campus. Localities may lose revenue due to the exemption from taxation provided to VFSA and to the extent the localities choose to dedicate local sales and use tax to VFSA. Alternatively, affected localities choosing not to redirect local tax revenue to the VFSA may see an increase in revenues from the stadium's operation. The bill authorizes localities to appropriate revenues to VSFA.

9. Specific Agency or Political Subdivisions Affected: Department of Taxation; Department of Treasury; localities.

10. Technical Amendment Necessary: The Department of Taxation recommends cross-referencing the definition and description of "pass-through entity" set forth in § 58.1-390.1, Code of Virginia, rather than setting forth a new definition that applies different definitions of a pass-through entity and pass-through entity income. For income tax purposes, sole

proprietorships are treated as disregarded entities, rather than pass-through entities and taxed as individuals under § 58.1-320, Code of Virginia, so they should not be included in the definition of pass-through entities.

11. Other Comments: HB1353 also establishes a Virginia Football Stadium Authority.