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SENATE BILL NO. 861

Offered January 9, 2013

Prefiled January 3, 2013

A BILL to amend and reenact § 58.1-608.3 of the Code of Virginia, relating to entitlement of certain localities to sales and use tax revenue generated in certain public facilities.

Patron—Carrico

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 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, or City of Winchester. 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 of this section. 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.) of this title, as limited herein. "Sales tax revenues" does not include the revenue
61 generated by the one-half percent sales and use tax increase enacted by the 1986 Special Session of the
62 General Assembly which shall be paid to the Transportation Trust Fund as defined in § 33.1-23.03:1,
63 nor shall it include the one percent of the state sales and use tax revenue distributed among the counties
64 and cities of the Commonwealth pursuant to subsection D of § 58.1-638 on the basis of school age
65 population. For a public facility that is a sports facility, "sales tax revenues" shall include such revenues
66 generated by transactions taking place upon the premises of a baseball stadium or structures attached
67 thereto.

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

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

90 C. Any municipality which has issued bonds (i) after December 31, 1991, but before January 1,
91 1996, (ii) on or after January 1, 1998, but before July 1, 1999, (iii) on or after January 1, 1999, but
92 before July 1, 2001, (iv) on or after July 1, 2000, but before July 1, 2003, (v) on or after July 1, 2001,
93 but before July 1, 2005, (vi) on or after July 1, 2004, but before July 1, 2007, (vii) on or after July 1,
94 2009, but before July 1, 2012, or (viii) on or after January 1, 2011, but prior to July 1, 2015, to pay the
95 cost, or portion thereof, of any public facility shall be entitled to all sales tax revenues generated by
96 transactions taking place in such public facility. Such entitlement shall continue for the lifetime of such
97 bonds, which entitlement shall not exceed 35 years, and all such sales tax revenues shall be applied to
98 repayment of the bonds. The State Comptroller shall remit such sales tax revenues to the municipality
99 on a quarterly basis, subject to such reasonable processing delays as may be required by the Department
100 of Taxation to calculate the actual net sales tax revenues derived from the public facility. The State
101 Comptroller shall make such remittances to eligible municipalities, as provided herein, notwithstanding
102 any provisions to the contrary in the Virginia Retail Sales and Use Tax Act (§ 58.1-600 et seq.). ~~No~~
103 *Except for public facilities described in subsection B, no such remittances shall be made until*
104 *construction is completed and, in the case of a renovation or expansion, until the governing body of the*
105 *municipality has certified that the renovation or expansion is completed. For public facilities described*
106 *in subsection B, the sales tax revenue generated in what will become any part of the completed public*
107 *facility shall be remitted by the Comptroller upon certification by the governing body of the municipality*
108 *that a business license has been issued to an occupant of the public facility, even though construction of*
109 *the entire public facility has not been completed. In the case of a renovation or expansion of a*
110 *completed public facility described in subsection B, no remittances shall be made until the governing*
111 *body of the municipality has certified that sales tax revenue has been generated in what will become*
112 *part of the completed renovation or expansion, even though the entire renovation or expansion has not*
113 *been completed.*

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