DEPARTMENT OF TAXATION
2013 Fiscal Impact Statement

1. Patron Joseph P. Johnson, Jr.

2. Bill Number HB 2259

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

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

3. Committee House Agriculture, Chesapeake and Natural Resources

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

5. Summary/Purpose:

This bill would deem development projects that otherwise meet the requirements to be a development of regional impact, but that are located in the County of Washington to be "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 such projects. The bill would also modify the criteria used to define such developments by removing the requirement that the development be in a locality that has a rate of unemployment at least three percentage points higher than the statewide average in November 2011.

Under current law, certain municipalities that have issued bonds during a specified time period to pay the cost of any public facility are entitled to a portion of the sales tax revenues generated by transactions taking place in the public facility. Eligible municipalities include the cities of Hampton, Lynchburg, Newport News, Norfolk, Portsmouth, Richmond, Roanoke, Salem, Staunton, Suffolk, Virginia Beach, and Winchester. Further, 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 also entitled to a portion of the sales tax revenues generated by such projects.

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 Impact

The Department considers implementation of this bill as "routine" and does not require additional funding.

Revenue Impact

The sales tax revenues diverted to a municipality consist of the 2 ½% General Fund portion of the sales tax and the 1% local option tax. 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. The ½% portion dedicated to the Transportation Trust Fund and the 1% distributed to localities based on school age population are not affected.

The General Fund revenue loss associated with the proposed bill is unknown. Currently, the City of Bristol is the only locality in which a project that meets the definition of a development of regional impact qualifies as a public facility for purposes of the entitlement.

9. Specific agency or political subdivisions affected:

Department of Taxation
Department of Accounts
County of Washington

10. Technical amendment necessary: No.

11. Other comments:

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 Cities of Hampton, Lynchburg, Newport News, Norfolk, Portsmouth, Richmond, Roanoke, Salem, Staunton, Suffolk, Virginia Beach, and Winchester. Certain public facilities in the City of Bristol also qualify.

Qualifying hotels include: 1) 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; 2) any hotel attached to and an integral part of a qualifying public facility; or 3) 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. Currently, with the exception of public facilities in the City of Bristol, shopping centers and malls are specifically excluded from the public facilities designation.

Under current law, the sales tax revenue can be used to pay the following costs for which bonds are 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.

Under current law, 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. 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. No remittance is made until construction 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 City of Newport News and the City of Salem, in 2006 to include the City of Norfolk, in 2009 to include the City of Richmond and the Cities of Virginia Beach; and in 2012 to include the Cities of Lynchburg and Winchester.

Development Projects in the City of Bristol

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. In order to be deemed a development of regional impact, the development project must 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 legislation also effectively expanded the public facilities definition for qualifying development projects to include shopping malls and shopping centers.

Proposal

This bill would entitle development projects in the County of Washington that meet the requirements for a development of regional impact to be 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 bill would also modify the criteria used to define such a development by removing the requirement that the development be in a locality that has a rate of unemployment at least three percentage points higher than the statewide average in November 2011.

The effective date of this bill is not specified.

Similar Legislation

Senate Bill 1289 is identical to this bill.

House Bill 1785 would add the Town of Wise to the list of municipalities eligible to receive a portion of sales tax revenues generated by qualifying public facilities in their jurisdiction to repay bonds issued to pay the costs of such facilities.

Senate Bill 861 and House Bill 1798 (identical) would authorize qualifying public facilities in the City of Bristol eligible to receive a portion of sales tax revenues generated by these facilities to receive their portion of sales tax revenue as soon as the governing body certifies that a business license has been issued to an occupant of the facility, rather than waiting for completion of the construction, expansion, or renovation.

Senate Bill 1225 would add the City of Fredericksburg to the list of municipalities eligible to receive a portion of sales tax revenues generated by qualifying public facilities in their jurisdiction to repay bonds issued to pay the costs of such facilities.

cc : Secretary of Finance

Date: 1/19/2013 KP
DLAS File Name: HB2259