

DEPARTMENT OF TAXATION

2013 Fiscal Impact Statement

1. **Patron** Ronald A. Villanueva

2. **Bill Number** HB 2320

3. **Committee** Passed House and Senate

House of Origin:

☐ Introduced

☐ Substitute

☐ Engrossed

4. **Title** State and Local Taxes; City of Virginia
Beach Arena

Second House:

☐ In Committee

☐ Substitute

☒ Enrolled

5. **Summary/Purpose:**

This bill would entitle the City of Virginia Beach, subject to appropriation, to sales and use tax revenues generated as a result of the construction and operation of a National Hockey League ("NHL") or National Basketball Association ("NBA") arena to hold games, conferences and entertainment events. The Tax Commissioner would be required to report annually to the Chairmen of the Senate and House Finance Committees and the Chairman of the House Appropriations Committee the amount of the entitlement.

Additionally, under the provisions of the bill, the issuance of bonds would require the prior review by the State Treasurer, and if the State Treasurer and the Debt Capacity Advisory Committee determine that the bonds contemplated to be issued would constitute tax supported debt or have an adverse impact on the Commonwealth's debt capacity or credit ratings, the bonds would have to be authorized by the General Assembly.

The bill would also permit The Authority to issue bonds to construct an arena. In order for such bonds to be issued for an NBA or NHL arena, the NBA or NHL would need to provide approval that a NBA or NHL team will be located in the City of Virginia Beach.

The effective date of the bill is not specified. The provisions of this bill would expire on January 1, 2018, unless the City of Virginia Beach has (i) executed a lease with a team that is a member of either the NHL or the NBA; or (ii) issued bonds for an arena in order to hold conferences and entertainment events. If the City of Virginia Beach has executed a lease or issued bonds prior to January 1, 2018, the provisions of the bill would expire on the earliest of the maturity date of bonds issued by the City or the Development Authority; or July 1, 2043.

6. **Budget amendment necessary:** No.

7. **Fiscal Impact Estimates are:** Not available. (See Line 8.)

8. Fiscal implications:

Administrative Costs

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

Revenue Impact

This bill has the potential to decrease state revenues by an unknown, but possibly significant amount. Because the bill does not specify an effective date and the locality has not secured an agreement with any NHL or NBA teams, the revenue impact of this proposal is unknown. However, given the Authority’s entitlement, under the bill, to sales and use tax revenues from both the construction and operation of the facility, the bill’s revenue impact could be significant.

According to the Department of Planning and Budget, the provision of the bill requiring the General Assembly to authorize bonds to be issued by the City that the State Treasurer and the Debt Capacity Advisory Committee determine are tax-supported debt, ensures that any debt issued by the City does not inadvertently become tax-supported debt. Anticipated revenue to the Commonwealth is a factor that the Debt Capacity Advisory Committee uses in determining the Commonwealth’s debt capacity. To the extent that a decrease in state revenue to the general fund occurs, the state’s debt capacity may be impacted.

9. Specific agency or political subdivisions affected:

City of Virginia Beach
Department of Accounts
Department of Taxation
Department of Treasury
State Comptroller

10. Technical amendment necessary: No.

11. Other comments:

Background

Hampton Roads Sports Facility Authority

In 1996, the General Assembly created the Hampton Roads Sports Facility Authority (the Authority) to facilitate the attraction and operation of a NBA or NHL franchise. To assist in the financing of this purpose, the Authority was granted entitlement to state sales tax revenues generated by transactions occurring at a NBA or NHL stadium. At this same time, localities in which a stadium is located were given an option to elect to give designated local sales and use taxes to the Authority.

In 1997, the General Assembly enacted legislation that granted the Authority entitlements to certain individual and corporate income tax revenues generated by activities that would occur at a NBA or NHL stadium. In addition, localities in which a stadium is located were given an option to elect to give designated admissions tax revenues, local food and beverage tax revenues, and business, professional, and occupational license (BPOL) tax revenues to the Authority. These legislative changes were made contingent on the Authority signing a lease with a NBA or NHL team on or before January 1, 2002.

In 2002, the General Assembly extended the applicability of the 1997 amendments by allowing the Authority until January 1, 2005, to enter into a lease with a NBA or NHL team. The 2002 legislation also clarified that tax entitlements would be effective for a temporary facility occupied by a NBA, WNBA, or NHL team. Because the Hampton Roads Sports Facility Authority was never able to secure a lease agreement with an NBA or NHL team, certain provisions of the bill expired in 2005.

Although an Agreement has never been reached with a professional basketball or hockey team, The Hampton Roads Sports Facility Authority continues to exist under current law, and is entitled under the law to all sales tax revenues generated by transactions taking place upon any stadium for which the Authority issues bonds, for a maximum period of 30 years.

Proposal

Overview

This bill would grant a number of rights to the City of Virginia Beach in order to facilitate the construction and operation of a NHL or NBA arena, or stadium to hold games or conferences and entertainment events. Specifically, the City of Virginia Beach would be entitled to state sales and use tax revenues generated as a result of the construction, operation or conduct of trade or business occurring within the facility or temporary facility.

Under the terms of the bill, the term “facility” would be defined to include an arena as well as practice facilities, team and franchise offices, restaurants, concessions, retail, and lodging facilities owned and operated adjacent to the arena or other structure, parking lots, garages, and any other directly related properties, provided these facilities are both appurtenant to and directly or indirectly benefited by the arena. The term “arena” would be defined as an arena or stadium with a seating capacity of at least 15,000 proposed to be constructed in the City of Virginia Beach for the purpose of (i) conducting games by a NHL or NBA team or (ii) holding conferences and entertainment events. “Temporary facility” would mean a facility or arena in which a sports franchise plays its home schedule on a temporary basis during the development and construction of an arena.

Entitlement for Sales and Use Tax Revenues

This bill would entitle the City of Virginia Beach to sales and use tax revenues generated from the facility. Sales and use tax revenues would include all tax revenues collected from the sales and use tax generated by transactions that take place on the premises of the arena or facility authorized under this bill. The sales tax revenue entitlements would include revenue generated in connection with the development and construction of the

facility or arena. Therefore, sales and use tax revenues generated from the purchase or use of materials and equipment utilized in the construction of the qualifying facility would be included in the entitlement. Sales and use tax revenues would also include any transactions that occur on the premises of a temporary facility in connection with games or other activities of a sports franchise conducted at the temporary facility.

Sales and use tax revenues would not include the ½% sales and use tax revenue that is allocated to the Transportation Trust Fund, the 1% tax revenue distributed among localities on the basis of school-age population, or the ¼% appropriated to the Public Education Standards of Quality/Local Real Estate Property Tax Relief.

Report to the General Assembly

The Tax Commissioner would be required to report annually to the Chairmen of the Senate and House Finance Committees and the Chairman of the House Appropriations Committee the amount of the entitlement.

The effective date of the bill is not specified. The provisions of this bill would expire on January 1, 2018, unless the City of Virginia Beach has (i) executed a lease with a team that is a member of either the NHL or the NBA; or (ii) issued bonds for an arena in order to hold conferences and entertainment events. If the City of Virginia Beach has executed a lease or issued bonds prior to January 1, 2018, the provisions of the bill would expire on the earliest of the maturity date of bonds issued by the City or the Development Authority or July 1, 2043.

cc : Secretary of Finance

Date: 3/8/2013 KP
DLAS File Name: HB2320FER161