

# DEPARTMENT OF TAXATION

## 2013 Fiscal Impact Statement

1. **Patron** Jill Holtzman Vogel

3. **Committee** Senate Finance

4. **Title** Retail Sales and Use Tax; Expands Sales  
Tax Revenue Entitlement for City of  
Winchester

2. **Bill Number** SB 1370

**House of Origin:**

  X   **Introduced**

       **Substitute**

       **Engrossed**

**Second House:**

       **In Committee**

       **Substitute**

       **Enrolled**

### 5. **Summary/Purpose:**

This bill would expand the type of uses permitted in a public facility in the City of Winchester, without disqualifying it from the public facility entitlement to certain sales tax revenues generated by the facility. Qualifying uses would include retail businesses, offices, restaurants, or other similar commercial spaces, provided that the commercial uses are ancillary to the primary use of the public facility and the City does not own the facility.

Under current law, certain municipalities that have issued bonds during specified time periods to pay the costs of a public facility are entitled to a portion of the sales tax revenues generated by transactions taking place in the facility. Eligible municipalities include the cities of Hampton, Lynchburg, Newport News, Norfolk, Portsmouth, Richmond, Roanoke, Salem, Staunton, Suffolk, Virginia Beach, and Winchester. Qualifying uses include auditoriums, sports facilities, convention centers, and hotels. With the exception of certain facilities in the City of Bristol, shopping centers are not considered "public facilities" for purposes of this entitlement.

This bill contains an emergency clause and is in force from its passage.

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

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

### 8. **Fiscal implications:**

#### Administrative Costs

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 qualifying for the public facility entitlement 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 provisions of this bill is unknown. The Department understands that this bill is intended to apply to a proposed baseball stadium in the City of Winchester that may ultimately contain retail space, offices, and restaurants. Because the amount of sales tax revenue generated in this type of facility cannot be ascertained, the revenue impact is unknown.

### **9. Specific agency or political subdivisions affected:**

Department of Accounts  
Department of Taxation  
City of Winchester

### **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. Currently, with the exception of public facilities in the City of Bristol, shopping center 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.

Currently, 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.

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.

### Proposal

This bill would expand the type of uses permitted in a public facility in the City of Winchester without disqualifying it from the public facility entitlement to certain sales tax revenues generated by the facility. Qualifying uses would include retail businesses, offices, restaurants, or other similar commercial spaces, provided that the commercial uses are ancillary to the primary use of the public facility and the City does not own the facility.

This bill contains an emergency clause and is in force from its passage.

### Similar Legislation

**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.

**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.

cc : Secretary of Finance

Date: 1/29/2013 KP  
DLAS File Name: SB1370F161