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HOUSE BILL NO. 1267

AMENDMENT IN THE NATURE OF A SUBSTITUTE
(Proposed by the Senate Committee on Local Government
on February 25, 2014)

(Patron Prior to Substitute—Delegate Knight)

A *BILL to amend and reenact §§ 15.2-5922, 15.2-5923, 15.2-5925, 15.2-5926, and 15.2-5927 of the Code of Virginia and to amend and reenact the second and fifth enactments of Chapter 767 of the Acts of Assembly of 2013, relating to Virginia Beach arena.*

Be it enacted by the General Assembly of Virginia:

1. That §§ 15.2-5922, 15.2-5923, 15.2-5925, 15.2-5926, and 15.2-5927 of the Code of Virginia are amended and reenacted as follows:

§ 15.2-5922. (Contingent expiration date) Powers.

In addition to all other powers it possesses, the City of Virginia Beach may:

1. Determine the locations of, develop, establish, construct, erect, acquire, own, repair, remodel, add to, extend, improve, equip, operate, regulate, and maintain facilities to the extent necessary to accomplish the purposes of this chapter;

2. Operate, enter into contracts for the *construction, development, maintenance, or* operation of, and regulate the use and operation of facilities developed under the provisions of this chapter;

3. Fix and revise from time to time and charge and collect rates, rents, fees, ticket surcharges, or other charges for the use of facilities or for services rendered in connection with the facilities;

4. *Dedicate the funds made available pursuant to this chapter for the construction, development, operation, or maintenance of the facilities;*

5. Issue bonds under this chapter; and

6. Do all things necessary or convenient to carry out the powers granted by this chapter.

§ 15.2-5923. (Contingent expiration date) Public hearings; notice; reports.

A. At least 30 days before acquiring or entering into a lease involving a facility site and before entering into a construction contract involving a new facility or facility site, the City of Virginia Beach shall submit to the General Assembly a detailed written report and findings of the City on the proposed acquisition, lease, or contract. The report and findings shall include a detailed plan of the method of funding and the economic benefits of the proposed acquisition, lease, or contract.

B. The State Treasurer shall be provided with copies of all documents relating to the proposed issuance of any bonds pursuant to § 15.2-5924 *or any contract that includes the dedication of those funds authorized by this chapter* sufficiently in advance of such bond issue *or execution of such contract* to conduct such reviews as the State Treasurer deems necessary. Such reviews shall be completed within 120 days after the date that the Treasurer is provided such documents. In the event that the Commonwealth is an obligated person determined to be material to an evaluation of the offering for which financial information will be included or referenced in the offering document in accordance with Securities and Exchange Commission Rule 15c 2-12 under the federal Securities Exchange Act of 1934, or in the event that in the opinion of the State Treasurer, with the concurrence of the Debt Capacity Advisory Committee established under Article 5 (§ 2.2-2712 et seq.) of Chapter 27 of Title 2.2, such bond issue *or contractual obligation* will be considered tax-supported debt of the Commonwealth or have an adverse impact on the debt capacity or the credit ratings of the Commonwealth, such bond issue *or contractual obligation* must be authorized by the General Assembly.

§ 15.2-5925. (Contingent expiration date) Arena Financing Fund; use.

A. ~~The~~ *If the City of Virginia Beach may, in its discretion, issues bonds pursuant to § 15.2-5924 for an arena as defined in § 15.2-5921 or enters into a contract for the construction, development, operation, or maintenance of a facility as defined in § 15.2-5921, then it shall create an Arena Financing Fund, hereafter referred to in this section as "the Fund." The City of Virginia Beach may use the Fund as a nonlapsing revolving fund for carrying out the provisions of this chapter.*

B. All of the following receipts of the City of Virginia Beach ~~may~~ *shall* be placed in the Fund: (i) proceeds from the sale of bonds, *issued pursuant to § 15.2-5924 and* (ii) revenues collected or received from any source under the provisions of this chapter, ~~and (iii). The City of Virginia Beach may also place any other revenues under the jurisdiction of the City of Virginia Beach in the Fund.~~

C. The City of Virginia Beach ~~may~~ *shall, subject to appropriation by City Council, pay expenses and make expenditures from the Fund. To the extent deemed appropriate by the City of Virginia Beach, the receipts of the Fund may be pledged to and charged with The revenues authorized under the provisions of this chapter shall only be used to support the payment of debt service on City of Virginia Beach bonds issued pursuant to § 15.2-5924 or to meet contractual obligations for the construction, development, operation, and maintenance of the facility, and all reasonable charges and expenses related*

60 to the City borrowing and the management of the City's obligations.

61 **§ 15.2-5926. (Contingent expiration date) Entitlement to tax revenues derived from the**
62 **operation of a facility.**

63 A. The City of Virginia Beach shall be entitled, subject to appropriation, to sales and use tax
64 revenues defined in this chapter. The State Comptroller shall remit such tax revenues to the City of
65 Virginia Beach on a quarterly basis, subject to such reasonable processing delays as may be required by
66 the Department of Taxation. The State Comptroller shall make such remittances to the City of Virginia
67 Beach, as provided herein, notwithstanding any provisions to the contrary in the Virginia Retail Sales
68 and Use Tax Act (§ 58.1-600 et seq.). *The sales and use tax revenues defined in this chapter shall be*
69 *used only for the payment of debt service or to meet contractual obligations for the construction,*
70 *development, operation, and maintenance of the facility.*

71 B. The local governing body of the City of Virginia Beach may, by ordinance or resolution, fix and
72 revise from time to time and charge and collect rates, rents, fees, ticket surcharges, or other charges for
73 a facility and any temporary facility developed under the provisions of this chapter.

74 **§ 15.2-5927. (Contingent expiration date) Tax revenues of the Commonwealth or any other**
75 **political subdivision not pledged.**

76 Nothing in this chapter shall be construed as authorizing the pledging of the faith and credit of the
77 Commonwealth, or the faith and credit of any other political subdivision of the Commonwealth, for the
78 payment of any bonds *or meeting the contractual obligations of the City of Virginia Beach*. No bonds
79 issued pursuant to § 15.2-5924 *or contractual obligations of the City of Virginia Beach* shall pledge the
80 full faith and credit of the Commonwealth nor shall such bonds *or contract* constitute a debt of the
81 Commonwealth, and the bonds shall so state on their face. Bondholders *or parties to a contract* shall
82 have no recourse whatsoever against the Commonwealth for the payment of principal, interest,
83 *contractually obligated moneys*, or redemption premium, if any, on such bonds *or contracts*.

84 **2. That the second and fifth enactments of Chapter 767 of the Acts of Assembly of 2013 are**
85 **amended and reenacted as follows:**

86 **2. That the Tax Commissioner shall report to the Chairman of the Senate Finance Committee,**
87 **Chairman of the House Finance Committee, and Chairman of the House Appropriations**
88 **Committee, annually prior to July 1, the amount of the entitlement pursuant to § 15.2-5926 as**
89 **added by this act, provided that the City of Virginia Beach has entered into the lease or contract**
90 **described under the fifth enactment of this act.**

91 **5. That if prior to January 1, 2018, (i) the City of Virginia Beach has not executed a lease with**
92 **a team as defined under § 15.2-5921 as added by this act that is a member of the National Hockey**
93 **League or the National Basketball Association or, (ii) the City of Virginia Beach or the City of**
94 **Virginia Beach Development Authority has not issued bonds for an arena as defined under**
95 **§ 15.2-5921 for the purpose of holding conferences and entertainment events, or (iii) the City of**
96 **Virginia Beach or the City of Virginia Beach Development Authority has not entered into a contract**
97 **for the construction, development, operation, or maintenance of the facility, then the provisions of**
98 **this act shall expire on January 1, 2018. If prior to January 1, 2018, (a) the City of Virginia Beach**
99 **has executed such a lease or, (b) the City of Virginia Beach or the City of Virginia Beach**
100 **Development Authority has issued bonds for an arena as defined under § 15.2-5921 for the**
101 **purpose of holding conferences and entertainment events, or (c) the City of Virginia Beach or the**
102 **City of Virginia Beach Development Authority has entered into a contract for the construction,**
103 **development, operation, or maintenance of the facility, then the provisions of this act shall expire on**
104 **the earliest of (1) the maturity date of any bonds that were first issued by the City of Virginia**
105 **Beach or the City of Virginia Beach Development Authority for such arena, excluding any**
106 **refunding or refinancing of such bonds first issued and excluding any bond anticipation notes**
107 **issued, (2) the expiration of the City's or Authority's contractual obligations for the construction,**
108 **development, operation, or maintenance of the facility, or (2) (3) July 1, 2043.**