

# DEPARTMENT OF TAXATION

## 2014 Fiscal Impact Statement

1. **Patron** Barry D. Knight

3. **Committee** Passed House and Senate

4. **Title** City of Virginia Beach; Sports or  
Entertainment Arena

2. **Bill Number** HB 1267

**House of Origin:**

           **Introduced**

           **Substitute**

           **Engrossed**

**Second House:**

           **In Committee**

           **Substitute**

      X       **Enrolled**

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

This bill would authorize the City of Virginia Beach to contract for the construction, development, or maintenance of, and regulate the use and operation of a qualifying sports arena or conference center. The bill would allow Virginia Beach to designate funds made available for purposes of the sports facility or conference center to the construction, development, operation or maintenance of the facilities; require creation of an Arena Financing Fund ("Fund") if bonds are issued or a contract is entered into in furtherance of the arena; and limit the use of any revenues placed in the Fund to the payment of debt service on bonds or to meet contractual obligations for the construction, development, operation and maintenance of the facility. In addition, the bill would require that the City provide the State Treasurer with any contracts that include the dedication of the funds before the contract is executed. The bill would also limit the use of the City's sales tax entitlement revenues to the payment of debt service or to meet contractual obligations for the construction, development, operation and maintenance of the facility. Finally, the bill would extend the deadline for the City's sales tax entitlement, bond authority, and other authority related to the sports facility or conference center, by providing that if the City (or Development Authority) has entered into a contract for the construction, development, operation or maintenance of the facility by January 1, 2018, then its authority will expire on the earliest of: 1) the maturity date of the bonds; 2) the expiration of the City's contractual obligations for the construction development, operation or maintenance of the facility; or 3) July 1, 2043.

Under current law, the City of Virginia Beach is entitled to a portion of state sales and use tax revenues generated as a result of the construction, operation or conduct of trade or business occurring within a qualifying arena or stadium constructed for the purpose of: 1) conducting games by a NHL or NBA team; or 2) holding conferences and entertainment events. This entitlement will expire on January 1, 2018, unless the City of Virginia Beach has either: 1) executed a lease with a NHL or NBA team; or 2) issued bonds for an arena in order to hold conferences and entertainment events, in which case, the entitlement will expire on the earliest of the maturity date of bonds issued by the City or the Development Authority or July 1, 2043.

The effective date of this bill is not specified.

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

**7. No Fiscal Impact** (See line 8).

**8. Fiscal implications:**

Legislation enacted in 2013 authorizes the City of Virginia Beach to a portion of the sales tax revenues generated by the construction and operation of a qualifying NBA or NHL sports arena, or qualifying conference center. As this bill does not change the amount of sales and use tax revenues that will be transferred to the City of Virginia Beach pursuant to the entitlement, this bill would have no additional impact on state tax revenues.

**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:**

Current Law

#### **Public Facilities Sales Tax Entitlement**

*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 Town of Wise and the Cities of Fredericksburg, Hampton, Lynchburg, Newport News, Norfolk, Portsmouth, Richmond, Roanoke, Salem, Staunton, Suffolk, Virginia Beach, and Winchester.

#### **Virginia Beach Sales Tax Entitlement**

Legislation enacted in 2013 grants the City of Virginia Beach expanded authority to receive state sales and use tax revenues generated as a result of the construction or operation of a facility intended to serve as an arena for a NHL or NBA team or for the purpose of holding conferences and entertainment events. In addition to the arena or conference facility, the City will be similarly entitled to a portion of the sales tax revenues generated in 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. Sales and use tax revenues 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, as well as revenue generated in connection with the development and construction of the facility or arena. Sales and use tax revenues 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.

The legislation requires the Tax Commissioner to provide an annual report by July 1 to the Chairmen of the Senate and House Finance Committees and the House Appropriations Committee that provides the amount of the sales tax entitlement if the City has executed a lease with an NBA or NHL team.

### **Other Provisions**

The 2013 legislation grants the City of Virginia Beach authority to perform a number of additional functions related to the funding, construction, and operation of the qualifying sports arena, conference center, or entertainment center. Specifically, Virginia Beach may develop, establish, construct, erect, repair, remodel maintain, and operate the applicable facility; issue bonds to fund the facility; charge and collect fees, surcharges, etc., for use of the facilities; create and utilize an Arena Financing Fund to pay expenses and pledge the payment of debt service; and carry out all other activities necessary or convenient for funding, operating, and maintaining the facility.

The legislation requires the City of Virginia Beach to provide a written report to the General Assembly prior to acquiring or entering into a lease or a construction contract involving a facility site, and to provide copies to the State Treasurer of all documents relating to issuance of any bonds. Further, if the Commonwealth is an obligated person pursuant to Securities and Exchange Act or the State Treasurer believes that the bond issue will be considered tax-supported debt or have an adverse impact on the debt capacity or the credit ratings of the Commonwealth, the bond issue must be authorized by the General Assembly.

The entitlement, bond authority, and all other authority granted pursuant to the 2013 legislation will expire on January 1, 2018 if the City has not executed a lease with a NHL or NBA team, or issued bonds for an arena to hold conferences and entertainment events. If the City meets one of these two requirements, the entitlement will expire on the earliest of the maturity date of bonds issued by the City or the Development Authority, or July 1, 2043.

### **Proposal**

This bill would authorize the City of Virginia Beach to contract for the construction, development, or maintenance of, and regulate the use and operation of a qualifying sports arena or conference center. The bill would require the City to create an Arena Financing Fund if it issues bonds for such facility or enters into contracts for the facility's construction, development, operation or maintenance, and would require that any monies in the Fund be used to meet such bond or contractual obligations. The City would be required to pay expenses and make expenditures from the fund, and all receipts of the Fund would be committed to payment of debt service on City of Virginia Beach bonds or

to meet contractual obligations for the construction, development, operation, and maintenance of the facility. In addition, the bill would require that the City provide the State Treasurer with any contracts that include the dedication of or require the use of state funds before the contract is executed.

The bill would also require the Tax Commissioner to provide an annual report by July 1 to the Chairmen of the House and Senate Finance and House Appropriations Committees on the amount of the sales tax entitlement if the City has entered into a contract for the construction, development, operation, or maintenance of the facility, as well as if it has executed a lease with an NBA or NHL team.

In addition, the bill would limit the use of the City's sales tax entitlement revenues to the payment of debt service or to meet contractual obligations for the construction, development, operation and maintenance of the facility.

Finally, the bill would extend the deadline for the City's sales tax entitlement, bond authority, and other authority related to the sports facility or conference center, by providing that if the City (or Development Authority) has entered into a contract for the construction, development, operation or maintenance of the facility by January 1, 2018, then its authority will expire on the earliest of: 1) the maturity date of the bonds; 2) the expiration of the City's contractual obligations for the construction development, operation or maintenance of the facility; or 3) July 1, 2043.

The effective date of this bill is not specified.

#### Similar Legislation

**Senate Bill 571** is identical to this bill.

cc : Secretary of Finance

Date: 4/2/2014 KP  
DLAS File Name: HB1267FER161