

**DEPARTMENT OF TAXATION
2015 Fiscal Impact Statement**

1. Patron Charles W. Carrico, Sr.

3. Committee Senate Finance

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

2. Bill Number SB 1172

House of Origin:

 X **Introduced**

 Substitute

 Engrossed

Second House:

 In Committee

 Substitute

 Enrolled

5. Summary/Purpose:

This bill would authorize an expansion of the City of Bristol's Development of Regional Impact ("development") to include up to 84 acres, located within three miles of the existing development, in an adjoining county that: 1) has a portion of Interstate 81 located within its boundaries; and 2) has an agreement with the City of Bristol to expand the development into the county and to allocate local tax revenues generated by the public facility between the county and the city. Under the terms of the bill, once the qualifying county notifies the Department of Taxation of the area to be added to the existing development, it would be deemed part of the development for sales and use tax purposes and would not need to satisfy any additional requirements. In addition, the bill would preclude the City of Bristol from entitlement to any tax revenues generated from any retail operation within the expansion that is in operation on July 1, 2015. The Department understands that this bill is intended to apply to Washington County.

Under current law, any municipality which has issued bonds during a specified time period to pay the cost of any public facility is entitled to a portion of the sales tax revenues generated by transactions taking place in the public facility. 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 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 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

This bill would result in a revenue loss to the General Fund, the magnitude of which is unknown. It is not clear what type or how many businesses would be located within the 84 acres in Washington County included within the expansion. The legislation enacted during the 2012 General Assembly session, which expanded the definition of “public facilities” to include the City of Bristol’s “The Falls” development project committed the tax revenues generated in the City of Bristol. The proposed expansion to the designated area in Washington County would result in an additional loss of sales and use tax revenue.

The public facility sales tax entitlement to a municipality consists of the General Fund portion of the sales tax available for appropriation after accounting for transfers to the Transportation Trust Fund, localities according to school-age population, and the Public Education Standards of Quality/Real Estate Property Tax Relief Fund. The revenue resulting from the sales tax rate increases and other allocation changes provided for in 2013 House Bill 2313 are not included in the entitlement. 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.

9. Specific agency or political subdivisions affected:

Department of Accounts
Department of Taxation
City of Bristol
County of Washington

10. Technical amendment necessary: No.

11. Other comments:

Current Law

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. Generally, shopping centers and malls do not qualify for the public facility designation.

Under current law, the sales tax revenues can be distributed back to localities and used to pay the following costs for which bonds have been 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.

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. Sales tax revenues do not include any tax revenues generated from the purchase or use of materials and equipment utilized in the construction, expansion, or renovation of a qualifying public facility.

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. Currently, no remittance is made until construction, renovation or expansion 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. Over the years, the General Assembly has amended the population requirements numerous times to include the following municipalities: the cities of Portsmouth (1998), Suffolk (1999), Hampton (2000), Staunton (2001), Newport News and Salem (2004), Norfolk (2006), Richmond and Virginia Beach (2009), Lynchburg and Winchester (2012), Fredericksburg and the Town of Wise (2013).

The definition for public facility was expanded in 1998 to include hotels which are attached to and are an integral part of the public facility, in 2006 to exclude residential condominiums, townhomes, or other residential units, in 2009 to include sports facilities designed for use primarily as a baseball stadium for a minor league professional baseball affiliated team, and in 2011 to include hotels that are adjacent to convention centers owned by public entities where the hotel owners enter into a public-private partnership requiring the locality to contribute infrastructure, real property or conference space.

City of Bristol, Development of Regional Impact

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. The legislation was intended to address a commercial center that would be constructed in the City of Bristol, known as "The Falls." The statute requires that a development of regional impact 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 statute requires the Department to review the locality's findings as to these criteria and to file a written report with the House and Senate Finance and Appropriation Committees. Pursuant to the statute, on February 21, 2013, the Department released its report, indicating that the City of Bristol had complied with the statute's notification requirements.

County of Washington

During the 2013 Virginia General Assembly sessions, Washington County unsuccessfully sought legislation that would have expanded the City of Bristol's development of regional impact and the corresponding sales tax revenue entitlement to development projects located in Washington County that otherwise met the statutory requirements for a development of regional impact. Neither of the introduced bills made it out of the respective Finance committees. Legislation introduced in 2014 proposing to expand the boundaries of the development to include a designated area in Washington County also failed.

The City of Bristol and Washington County have entered into an agreement requiring Bristol to annually compensate Washington for lost tax revenues over a seven-year period if a specified retailer relocates to The Falls. In addition, the agreement allows for the two localities to split the local revenues over a fifteen year period if a large retailer with annual retail sales of \$2 million or more relocates from either jurisdiction to the other.

Proposal

This bill would authorize an expansion of the City of Bristol's Development of Regional Impact to include up to 84 acres in Washington County, located within three miles of the existing development. Under the terms of the bill, once Washington County notifies the Department of Taxation of the area to be added to the existing development, it would be deemed part of the development for sales and use tax purposes. In addition, the bill would preclude the City of Bristol from entitlement to any tax revenues generated from any retail operation within the expansion that is operating on July 1, 2015.

The effective date of this bill is not specified.

cc : Secretary of Finance

Date: 1/24/2015 KP
DLAS File Name: SB1172F161