DEPARTMENT OF TAXATION
2015 Fiscal Impact Statement

1. Patron Thomas K. Norment, Jr.

2. Bill Number SB 1401

House of Origin:
_____ **Introduced**
_____ **Substitute**
_____ **Engrossed**

Second House:
_____ **In Committee**
_____ **Substitute**
__X__ **Enrolled**

3. Committee Passed House and Senate

4. Title Tourism Zones; Retail Sales and Use Tax Revenues

5. Summary/Purpose:

This bill would lower the financing threshold from 80 percent to 70 percent that an authorized tourism project must have in place before qualifying for the current entitlement to sales and use tax revenues to repay the gap financing necessary to complete the project. The bill also would establish a new entitlement to state sales and use tax revenues for tourism projects of regional significance in an amount equal to the revenues generated by a 1.5 percent sales and use tax on transactions taking place on the premises of the project. In order for a tourism project to qualify for the new entitlement, the locality would be required to dedicate an amount equal to the revenues generated by a 1.5 percent sales and use tax on transactions taking place on the premises of the project and the owner of the project would be required to pay an access fee in the same amount. Tourism projects of regional significance must represent a new capital investment of at least $100 million in a new tourism facility or in a substantial and significant renovation or expansion of an existing tourism facility by a private entity and, as determined by the Virginia Tourism Authority, support i) increased hotel occupancy, ii) new job creation, iii) an increase in the number of out-of-state visitors to the Commonwealth, and iv) other factors of significant fiscal and economic impact. The financing threshold for tourism projects of regional significance would be 80 percent.

The bill would provide that no authorized tourism project or tourism project of regional significance would be entitled to receive the state sales and use tax revenue entitlement for public facilities and that a tourism project may receive only the entitlement to revenues for authorized tourism projects or the entitlement to revenues for tourism projects of regional significance. The bill also would provide that the sales tax entitlements for authorized tourism projects or tourism projects of regional significance do not include the revenues generated from the sales tax increases enacted in the 2013 General Assembly session.

Under current law, a locality may enact an ordinance dedicating at least an amount equal to the revenues generated by a one percent local sales and use tax generated by transactions taking place on the premises of an authorized tourism project to the payment of principal and interest on the gap financing. If the locality enacts such an ordinance, the project may qualify for an entitlement to an amount equal to the revenues generated by a one percent state sales and use tax on transactions taking place on the premises of the tourism project from General Fund revenues. Prior to any entitlement of tax revenues, the owner of the project must currently i) have a minimum of 80% of funding for the project in place through debt or equity, ii) enter into a performance agreement with the local economic development authority or similar local or regional political subdivision, and iii) enter into an agreement to pay an access fee equal to the revenues generated by a one percent state sales and use tax on transactions taking place on the premises of the tourism 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

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

Revenue Impact

The magnitude of the revenue loss associated with this bill is unknown as it is dependent on the construction of and financing for authorized tourism projects that meet the requirements of a tourism project of regional significance. To the extent that authorized tourism projects meet the proposed minimum funding threshold of 70 percent, but would not qualify under the existing 80 percent requirement, passage of this bill would result in an increase of transfers of General Fund revenue for payment of the gap financing and an equal negative revenue impact on the tax revenues of such localities. To the extent that future tourism projects would be considered tourism projects of regional significance, passage of this bill would result in an increase of transfers of General Fund revenue 50 percent higher than the amount currently prescribed by law for payment of the gap financing and a corresponding impact on local revenues.

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

Department of Taxation
All localities

10. **Technical amendment necessary:** No.

11. Other comments:

Generally

Localities are authorized to establish, by ordinance, one or more tourism zones. Localities may provide tax incentives within tourism zones for up to 20 years including, but not limited to 1) reduction of permit fees, 2) reduction of user fees and 3) reduction of any type of gross receipts tax. Localities are also authorized to provide regulatory flexibility within tourism zones for up to ten years including, but not be limited to 1) special zoning, 2) permit process reform, 3) exemption from ordinances and 4) any other incentive. The establishment of a tourism zone does not preclude the area from also being designated by the state as an enterprise zone.

Authorized Tourism Projects

Currently, a locality that has established a tourism plan as determined by guidelines established by the Virginia Tourism Authority and has an authorized tourism project to meet a deficiency identified in the tourism plan may direct local tax revenues to assist the developer with a gap between expected development costs and available debt and equity capital. A locality may enact an ordinance dedicating an amount of local tax revenues equal to the revenues generated by a one percent local sales and use tax generated by transactions taking place on the premises of the tourism project to the payment of principal and interest on the gap financing. If the locality enacts such an ordinance, the project is also entitled to an amount equal to the revenues generated by a one percent state sales and use tax on transactions taking place on the premises of the tourism project from General Fund revenues. The dedication continues until the gap is paid or refinanced.

Prior to any entitlement of tax revenues, the owner of the project must i) have a minimum of 80% of funding for the project in place through debt or equity, ii) enter into a performance agreement with the local economic development authority or similar local or regional political subdivision, and iii) enter into an agreement to pay an access fee. The access fee is equivalent to the amount of state revenue returned to the project. Both the access fee and tax revenues must be used to pay the debt service required to finance the project. In the event that the sales tax entitlement and the access fee exceed any annual debt service required to finance the construction of the tourism project, the excess is held in an account dedicated for the project until the debt is paid in full.

Proposal

This bill would lower the financing threshold from 80 percent to 70 percent that an authorized tourism project must have in place before qualifying for the current entitlement to sales and use tax revenues to repay the gap financing necessary to complete the project. The bill also would establish a new entitlement to state sales and use tax revenues for tourism projects of regional significance in an amount equal to the revenues generated by a 1.5 percent sales and use tax on transactions taking place on the premises of the project. In order for the tourism project to qualify for the new entitlement, the locality would be required to enact an ordinance dedicating an amount equal to the revenues generated by a 1.5 percent sales and use tax on transactions taking place on the premises of the project and the owner of the project would be required to pay an access fee in the same amount.

Tourism projects of regional significance would be defined as authorized tourism projects that represent a new capital investment of at least $100 million in a new tourism facility or in a substantial and significant renovation or expansion of an existing tourism facility by a private entity and that, as determined by the Virginia Tourism Authority, support i) increased hotel occupancy, ii) new job creation, iii) an increase in the number of out-of-state visitors to the Commonwealth, and iv) other factors of significant fiscal and economic impact. Real and personal property that is necessary or complementary, such as arenas, sporting facilities, and hotels, developed in connection with any such tourism project and theme-related activity by vendors or the private owner of the tourism project that occurs on site and directly supports the tourism mission of the project would be part of such tourism project of regional significance. General retail outlets, shopping centers, ancillary retail structures not directly related to the tourism purpose of the project, and residential units would not be included as part of a tourism project of regional significance.

The bill would provide that no authorized tourism project or tourism project of regional significance would be entitled to receive the state sales and use tax revenue entitlement for public facilities and that a tourism project may receive only the entitlement to revenues for authorized tourism projects or the entitlement to revenues for tourism projects of regional significance. The bill also would provide that the sales tax entitlements for authorized tourism projects or tourism projects of regional significance do not include the revenues generated from the sales tax increases enacted in the 2013 General Assembly session.

The effective date of this bill is not specified.

Similar Legislation

House Bill 1756 would lower the threshold of financing from 80 percent to 70 percent that an authorized tourism project must have in place before qualifying for an entitlement to sales and use tax revenues to repay the gap financing necessary to complete the project.

cc : Secretary of Finance

Date: 3/16/2015 AM
DLAS File Name: SB1401FER161