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SENATE BILL NO. 1061

Senate Amendments in [] - January 18, 2023

Prefiled January 8, 2023

A BILL to amend and reenact §§ 2.2-2292, 15.2-4906, 15.2-4907, and 36-29 of the Code of Virginia, relating to private activity bonds; public hearings.

Patron Prior to Engrossment—Senator Stuart

Referred to Committee on Local Government

Be it enacted by the General Assembly of Virginia:

1. That §§ 2.2-2292, 15.2-4906, 15.2-4907, and 36-29 of the Code of Virginia are amended and reenacted as follows:

§ 2.2-2292. Public hearing and approval.

Whenever federal law requires public hearings and public approval as a prerequisite to obtaining federal tax exemption for the interest paid on private activity bonds under Section § 147(f) of the Internal Revenue Code, unless otherwise specified by federal law or regulation, the public hearing for private activity bonds of the Authority shall be conducted by the Authority and the procedure for the public hearing and public approvals shall be as follows:

1. For a public hearing by the Authority:

a. Notice of the hearing shall be published ~~once a week for two successive weeks not less than seven days in advance of such hearing [in a manner that is reasonably designed to inform residents of the Commonwealth, including residents of the locality in which the facility to be financed is to be located, of the proposed issuance of the bonds, and may include publication]~~ in a newspaper published or having general circulation in the municipality locality in which the facility to be financed is to be located ~~of intention to provide financing for a named applicant [or such other methods of publication as may be permitted by federal law]~~. The applicant shall pay the cost of notification. The notice shall also be mailed or otherwise delivered to the clerk of the local governing body of the municipality. The notice shall specify the time and place of hearing at which persons may appear and present their views. The hearing shall be held not less than ~~six~~ seven days ~~nor more than 21~~ days after the second notice ~~shall appear in such newspaper has been published~~. The hearing may be held at any place within the Commonwealth determined by the Board.

b. The notice shall contain (i) the name and address of the Authority; (ii) the name and address of the principal place of business, if any, of the applicant seeking financing; (iii) the maximum dollar amount of financing sought; and (iv) the type of business and purpose and specific location, if known, of the facility to be financed.

c. ~~Every~~ The Authority may require any request for private activity bond financing when submitted to the Authority ~~shall~~ be accompanied by a statement in the following form, ~~but the absence of any such form shall not affect the validity of a private activity bond~~:

Name of Applicant: _____

Facility: _____

Date: _____

Maximum amount of financing sought: \$_____

Estimated taxable value of the facility's real property in the municipality in which it is located. \$_____

Estimated taxable value of the facility's real property once constructed or expanded. \$_____

Estimated real property tax per year using present tax rates on the facility's real property once constructed or expanded. \$_____

Estimated personal property tax per year from property to be located in expanded or constructed facility using present tax rate. \$_____

Estimated merchants' capital tax per year from property to be located in expanded or constructed facility using present tax rate. \$_____

Estimated dollar value per year of goods and services that will be purchased in the Commonwealth during construction or expansion of facility. \$_____

Estimated dollar value per year of goods and services that will be purchased in the Commonwealth for the operation of the facility. \$_____

Estimated dollar value per year of goods and services that will be produced and sold from the facility. \$_____

Estimated number of employees during construction or expansion _____

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59 Estimated number of regular employees on a year round basis during operation of the facility _____

60 Average annual salary per regular employee during operation of the facility. \$ _____

61 Estimated payroll for labor during construction or expansion of the facility. \$ _____

62 If any of the above questions do not apply to the eligible business being financed, indicate by
63 writing N/A (not applicable) on the appropriate line.

64 2. For public approval, the Governor is appointed by this article as the applicable elected
65 representative within the meaning of Section § 147(f)(2)(E) of the Internal Revenue Code.

66 **§ 15.2-4906. Public hearing and approval.**

67 A. Whenever federal law requires public hearings and public approval as a prerequisite to obtaining
68 federal tax exemption for the interest paid on ~~industrial development~~ private activity bonds, unless
69 otherwise specified by federal law or regulation, the public hearing shall be conducted by the authority
70 and the procedure for the public hearing and public approval shall be in accordance with this section.

71 B. For a public hearing by the authority, notice of the hearing shall be published ~~once a week for~~
72 ~~two successive weeks not less than seven days in advance of such hearing [in a manner that is~~
73 ~~reasonably designed to inform residents of the locality in which the facility to be financed is to be~~
74 ~~located of the proposed issuance of the bonds, and may include publication]~~ in a newspaper having
75 general circulation in the locality in which the facility to be financed is to be located ~~of intention to~~
76 ~~provide financing for a named individual or business entity [or other such methods of publication as~~
77 ~~may be permitted by federal law]~~. The applicant shall pay the cost of publication. The notice shall
78 specify the time and place of hearing at which persons may appear and present their views. The hearing
79 shall be held not less than ~~six seven days nor more than twenty-one days~~ after the ~~second~~ notice shall
80 ~~appear in such newspaper has been published.~~

81 The notice shall contain: (i) the name and address of the authority; (ii) the name and address
82 (principal place of business, if any) of the party seeking financing; (iii) the maximum dollar amount of
83 financing sought; and (iv) the type of business and purpose and specific location, if known, of the
84 facility to be financed.

85 If after the hearing has been held the authority approves the financing, a reasonably detailed
86 summary of the comments expressed at the hearing shall be conveyed promptly to the locality's
87 governing body together with the recommendation of the authority.

88 C. For public approval, the governing body of the locality on behalf of which the bonds of the
89 authority are issued shall ~~within sixty calendar days from no more than one year after~~ the public hearing
90 held by the authority either approve or disapprove financing of any facility recommended by the
91 authority.

92 Action of the governing body shall be by a majority of a quorum set out in a resolution. Such vote
93 shall be recorded and disclose how each member voted.

94 In case of a joint authority the approval required by the governing body of the locality shall be that
95 governing body of the area where the facility will be located, if permitted by federal law or regulation.

96 The provisions of this section shall not apply to bonds, notes or other obligations issued pursuant to
97 hearings held and governmental approvals obtained prior to the effective date of this act in compliance
98 with federal law or regulation.

99 **§ 15.2-4907. Fiscal impact statement.**

100 ~~Every~~ An authority may require any request for ~~industrial development (facility)~~ private activity bond
101 financing when submitted to the ~~governing body of the locality for approval~~ shall authority to be
102 accompanied by a statement in the following form, ~~but the absence of any such form shall not affect the~~
103 ~~validity of a private activity bond:~~

104 _____
105 Date

106 _____
107 (Name of Applicant)

108 _____
109 (Facility)

- | | | |
|-----|--|----------|
| 110 | 1. Maximum amount of financing sought | \$ _____ |
| 111 | 2. Estimated taxable value of the facility's real property to be constructed in the locality | \$ _____ |
| 112 | 3. Estimated real property tax per year using present tax rates | \$ _____ |
| 113 | 4. Estimated personal property tax per year using present tax rates | \$ _____ |
| 114 | 5. Estimated merchants' capital tax per year using present tax rates | \$ _____ |
| 115 | 6. a. Estimated dollar value per year of goods that will be purchased from Virginia | \$ _____ |
| 116 | companies within the locality | |
| 117 | b. Estimated dollar value per year of goods that will be purchased from non-Virginia | \$ _____ |
| 118 | companies within the locality | |
| 119 | c. Estimated dollar value per year of services that will be purchased from Virginia | \$ _____ |
| 120 | companies within the locality | |

- d. Estimated dollar value per year of services that will be purchased from non-Virginia companies within the locality \$ _____
7. Estimated number of regular employees on year round basis \$ _____
8. Average annual salary per employee \$ _____

Signature

Authority Chairman

Name of Authority

If one or more of the above questions do not apply to the facility indicate by writing N/A (not applicable) on the appropriate line.

The provisions of this section shall not apply to bonds, notes or other obligations issued pursuant to hearings held and governmental approvals obtained prior to the effective date of this act in compliance with federal law or regulation.

§ 36-29. Power to issue bonds; liability in general.

An authority shall have power to issue bonds from time to time in its discretion, for any of its corporate purposes. An authority shall also have power to issue refunding bonds for the purpose of paying or retiring bonds previously issued by it or for the purpose of refunding loans made by another entity if such loans could have been made by the authority. An authority may issue such types of bonds as it may determine, including (without limiting the generality of the foregoing):

(a) Bonds on which the principal and interest are payable:

(1) Exclusively from the income and revenues of the housing project financed with the proceeds of such bonds; or

(2) Exclusively from the income and revenues of certain designated housing projects whether or not they are financed in whole or in part with the proceeds of such bonds; or

(3) From its revenues generally.

(b) Bonds on which the principal is payable solely from annual contributions or grants received from the federal government or received from any other source, public or private.

Any such bonds may be additionally secured by a pledge of any grant or contributions from the federal government or other source, or a pledge of any income or revenues of the authority, or a mortgage of any housing project, projects or other property of the authority.

Neither the commissioners of an authority nor any person executing the bonds shall be liable personally on the bonds by reason of the issuance thereof. The bonds and other obligations of an authority (and such bonds and obligations shall so state on their face) shall not be a debt of the city, the county, the Commonwealth or any political subdivision thereof (other than the authority) and neither the city or the county, nor the Commonwealth or any political subdivision thereof (other than the authority) shall be liable thereon, nor in any event shall such bonds or obligations be payable out of any funds or properties other than those of the authority. The bonds shall not constitute an indebtedness within the meaning of any constitutional or statutory debt limitation or restriction.

Whenever federal law requires public hearings and public approval as a prerequisite to obtaining federal tax exemption for the interest paid on private activity bonds authorized by this section, unless otherwise specified by federal law or regulation, the public hearing shall be conducted by the authority and the procedure for the public hearing and public approval shall be consistent with the procedures set forth in § 15.2-4906.

An authority may require any application for private activity bond financing when submitted to the authority to be accompanied by a statement in the form set forth in § 15.2-4907, but the absence of any such form shall not affect the validity of a private activity bond.

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