

# DEPARTMENT OF TAXATION

## 2022 Fiscal Impact Statement

1. **Patron** Hyland F. "Buddy" Fowler

2. **Bill Number** HB 1308

**House of Origin:**

           **Introduced**

           **Substitute**

           **Engrossed**

3. **Committee** Passed House and Senate

4. **Title** Retail Sales and Use Tax; Entitlement to  
revenues from tourism projects

**Second House:**

           **In Committee**

           **Substitute**

      X       **Enrolled**

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

This bill would entitle a "major tourism project" representing a new capital investment of at least \$500 million to the revenues generated by a two percent state sales and use tax on transactions taking place on its premises and to an equal or greater amount of local revenues. The bill would require that the tax entitlement be used for debt service on gap financing for the project. The bill would define gap financing to include a developer's primary debt financing, as well as any refinancing thereof, if the entitlements to tax revenues are pledged as collateral for such primary debt financing.

Current law allows certain tourism projects to qualify for the revenues generated by a one percent state sales and use tax entitlement, with an equivalent local match. Certain tourism projects representing a new capital investment of at least \$100 million are eligible for a 1.5 percent state sales and use tax entitlement, with an equivalent local match. Currently, "gap financing" means debt financing to compensate for a shortfall in project funding between the expected development costs of a project and the debt and equity capital provided by the developer of the project. Developers are currently not authorized to use the entitlement to repay their primary debt financing.

If enacted during the regular session of the 2022 General Assembly, this bill would become effective July 1, 2022.

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

7. **Fiscal Impact Estimates are:** Preliminary. (See Line 8.)

### 8. **Fiscal implications:**

#### Administrative Costs

This bill may have an unknown impact to local administrative costs. The Department of Taxation considers implementation of this bill to be routine and does not require additional funding.

## Revenue Impact

The impact of the bill to state and local revenues is unknown as it is indeterminable how many projects will meet the requirements provided by the bill.

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

Department of Taxation

Localities that have adopted tourism zones

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

### **11. Other comments:**

#### Tax Revenues from Tourism Projects

Under current law, if a locality (i) has established a tourism zone, (ii) has adopted an ordinance establishing a tourism plan, (iii) has adopted an ordinance authorizing a tourism project to meet a deficiency identified in the adopted tourism plan, and (iv) the tourism project has been certified by the State Comptroller as qualifying for tax entitlement, the authorized tourism project shall be 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 authorized tourism project. The project is also entitled to an equivalent amount of local revenues.

The entitlement is contingent on (i) the locality enacting an ordinance designating certain local tax revenues to the tourism project, and (ii) the owner having at least 70 percent of funding in place. The purpose of such entitlement is to assist the developer with obtaining gap financing and making payments of principal and interest thereon. The entitlement continues until the gap financing is paid in full and entitled sales tax revenues may only be applied solely to payments of principal and interest on the qualified gap financing.

Current law also entitles tourism projects of regional significance to revenues equal to a 1.5 percent sales and use tax on transactions taking place on the premises of such project. 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 increased hotel occupancy, new job creation, an increase in the number of out-of-state visitors to the Commonwealth, and other factors of significant fiscal and economic impact.

The current sales and use tax entitlement does not include any sales and use tax revenues currently dedicated to transportation or local education.

#### Proposal

This bill would entitle a “major tourism project” representing a new capital investment of at least \$500 million to the revenues generated by a two percent state sales and use tax on transactions taking place on its premises and to an equal or greater amount of local

revenues. The bill would require that the tax entitlement be used for debt service on gap financing for the project. The bill would define gap financing to include a developer's primary debt financing, as well as any refinancing thereof, if the entitlements to tax revenues are pledged as collateral for such primary debt financing. Prior to the entitlement of any sales and use tax revenues, the bill would require the project to have a minimum of 70 percent of funding in place through debt or equity.

The bill would define "major tourism project" as a tourism project that, in addition to meeting the requirements for "tourism projects" generally, represents a new capital investment of at least \$500 million in a new tourism facility or in a substantial and significant renovation or expansion of an existing tourism facility by a private entity in the Commonwealth, that will result in the creation of at least 500 net new jobs, and, as determined by the Virginia Tourism Authority, that supports increased hotel occupancy, an increase in the number of out-of-state visitors to the Commonwealth, and other factors of significant fiscal and economic impact. This would not include (i) general retail outlets, ancillary retail structures not directly related to the tourism purpose of the project, or other retail establishments commonly referred to as shopping centers or malls or (ii) residential condominiums, townhomes, or other residential units.

The bill would clarify that the state sales and use tax entitlement shall not include any sales and use tax revenues from the regional sales and use taxes for transportation or from the additional sales and use tax in the Historic Triangle.

Any entitlement to sales and use tax revenues for a major tourism project pursuant to this bill would be subject to review and approval by the MEI Project Approval Commission.

If enacted during the regular session of the 2022 General Assembly, this bill would become effective July 1, 2022.

cc : Secretary of Finance

Date: 03/23/2022 VB  
HB1308FER161