

DEPARTMENT OF TAXATION

2012 Fiscal Impact Statement

1. **Patron** Donald W. Merricks

3. **Committee** House Finance

4. **Title** Local Taxes; Equalizes Local Government
Taxing Authority

2. **Bill Number** HB 1157

House of Origin:

 X **Introduced**

 Substitute

 Engrossed

Second House:

 In Committee

 Substitute

 Enrolled

5. Summary/Purpose:

This bill would grant counties all the powers of taxation that are currently granted to cities and towns pursuant to the Uniform Charter Powers Act, regardless of whether such powers are established by county charter.

Under current law, while cities and towns are granted broad authority to tax pursuant to the Uniform Charter Powers Act in order to raise money to pay necessary expenses and debts, counties are limited in their ability to impose certain taxes and are limited in the tax rates that they may impose for other taxes.

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:

This bill would have no impact on state revenue. This bill would result in an increase in county revenue to the extent that county governments elect to expand their taxes or raise the rates they impose on meals, admissions, transient occupancy, and cigarettes.

9. Specific agency or political subdivisions affected:

All counties

10. Technical amendment necessary: No.

11. Other comments:

The issue of equalizing city and county taxing authority was addressed most recently in the report of the Commission on Virginia's State and Local Tax Structure for the 21st Century (2001 House Document No. 22). The Commission recommended that the distinction in the taxing authority of Virginia's cities and counties be eliminated. The Commission report states that the distinction is based "solely on an historical legalism which has no relevancy to modern service responsibilities..." The Commission report also notes that equalizing city and county taxing authority will "broaden the potential revenue base of counties, reduce their dependence on their real estate tax base, and make the potential revenue bases and therefore the measurement of revenue effort of cities and counties directly comparable.

Uniform Charter Powers Act

Current law grants cities and towns the authority to raise whatever money is necessary to pay the debts and defray the expenses of the municipal corporation by annually imposing taxes and assessments on property and people. As a result, cities and towns are given broad authority to tax in order to raise necessary funds.

The differences between the taxing authority of counties and municipalities are based on historical notions that counties are primarily rural and have less need for revenue and services. Unlike cities, only two counties (Arlington and Henrico) are responsible for secondary road maintenance and construction.

Admissions Taxes

Virginia law currently classifies events to which admissions are charged into five groups: 1) events where the gross receipts are distributed entirely to charitable purposes; 2) events sponsored by public and private educational institutions; 3) entry into museums, botanical or similar gardens and zoos; 4) sporting events, and 5) entry into major league baseball games; and 6) all other events. Localities that are authorized to impose the tax may do so at different rates according to the different classifications.

Cities and towns may impose admissions taxes without limitation under their general taxing powers. Only those counties that are authorized by statute may impose the tax, and must do so according to the limitations set forth by statute. The counties of Fairfax, Arlington, Dinwiddie, Prince George, Brunswick, Culpeper, and New Kent may impose an admissions tax on admission for any event at a maximum rate of ten percent. Charlotte County, Clarke County, Madison County, Nelson County and Sussex County may levy the tax at a maximum rate of ten percent only on admissions charged for spectator events. Scott County may levy a \$0.25 tax on each patron admitted to an off-track horse race wagering facility. Each of the counties authorized to levy the tax may elect not to levy the tax for events that are conducted solely to raise money for charitable purposes, provided the proceeds of the event are transferred to an entity that qualifies for exemption from the state Retail Sales and Use Tax as a nonprofit entity.

Occupancy Tax

Under current law, any county may impose a transient occupancy tax at a maximum rate of two percent, upon the adoption of an ordinance, on hotels, motels, boarding houses, travel campgrounds, and other facilities offering guest rooms. The tax, however, does not apply to rooms rented on a continuous basis by the same individual or group for 30 or more continuous days. The tax applies to rooms intended or suitable for dwelling and sleeping. Therefore, the tax does not apply to such rooms used for alternative purposes, such as banquet rooms and meeting rooms.

Virginia law separately identifies several counties that are permitted to impose the transient occupancy tax at a maximum rate of five percent, including the counties of Accomack, Albemarle, Allegheny, Amherst, Augusta, Bedford, Botetourt, Brunswick, Caroline, Carroll, Craig, Cumberland, Dinwiddie, Floyd, Franklin, Giles, Greene, Halifax, James City, King George, Loudoun, Madison, Mecklenburg, Montgomery, Nelson, Northampton, Page, Patrick, Prince Edward, Prince George, Prince William, Pulaski, Rockbridge, Smyth, Spotsylvania, Stafford, Tazewell, Washington, Wise, Wythe and York. In addition, the law specifies that the following counties may impose an additional transient occupancy tax at varying rates: Chesterfield, Hanover, Henrico, James City, York, Fairfax, Rockbridge, Franklin, Nelson, Bath, and Arlington.

Cities and towns are granted authority to impose a transient occupancy tax without any rate limitation under their general taxing powers.

Cigarette Tax

All cities and towns with general taxing powers are currently authorized to impose a cigarette tax with no rate limitations. Only two counties, Arlington and Fairfax, are authorized to impose a local cigarette tax, which is limited to the amount of the state cigarette tax rate. The state cigarette tax rate is currently 30 cents per pack of 20 cigarettes.

Meals Tax

Every county may levy a tax on food and beverages sold for human consumption at a maximum rate of four percent of the amount charged. Food and beverages sold through vending machines, by nonprofit cafeterias in public schools, by nursing homes, and by hospitals are exempt from the tax.

In order for a locality to impose the tax, it must be approved in a referendum within the county. The Counties of Arlington, Frederick, Montgomery, Roanoke, and Rockbridge may levy a food and beverages tax without approval in a referendum, if their governing bodies hold a public hearing before adopting the tax, and by unanimous vote, adopt the tax by local ordinance.

Cities and towns have no ceiling on the amount imposed, and may impose the tax without a referendum.

Proposal

This bill would grant counties all the powers of taxation that are currently granted to municipalities pursuant to the Uniform Charter Powers Act, regardless of whether such powers are established by county charter.

Admissions Taxes

Under the terms of this bill, like cities, all counties would be granted the authority to impose the admissions tax on one or more, all or none of the classes of admissions, and would be authorized to impose the tax at any rate.

The bill would also create a new classification for purposes of the admissions tax for admissions charged to any off-track horse race wagering facility.

Cigarette Taxes

This bill would authorize all counties to impose the cigarette tax. Additionally, the bill would remove the cap on the cigarette tax Arlington and Fairfax County are allowed to impose.

Food and Beverage Tax

This bill would provide a formula for determining the meals tax rate where a business is located partially within two or more local jurisdictions. While counties already follow this formula under current law, cities and towns are not currently subject to this limitation.

Transient Occupancy Tax

The bill would specifically retain the provisions authorizing James City and York County to impose an additional transient occupancy tax of \$2 per night to advertise the historic triangle area. In addition, the county of Rockbridge and the cities of Lexington and Buena Vista would continue to be authorized to impose transient occupancy tax at a maximum rate of two percent of the amount of charge for occupancy of any room or space occupied. The bill would also retain the provisions specifically authorizing Rappahannock County and Madison County to levy tax on occupancy in a bed and breakfast establishment and on food and beverages, when the charges for the occupancy of the room or space and for the sale of food and beverages are assessed in the aggregate and not separately stated. However, the bill would remove the provisions specifically authorizing the counties of Chesterfield, Hanover, and Henrico to impose additional transient occupancy taxes. In addition, the bill would repeal all other county transient occupancy tax statutes, in order to grant counties the same authority to impose the tax broadly as cities and towns have under the Uniform Charter Powers Act.

The effective date of this bill is not specified.

cc : Secretary of Finance

Date: 1/28/2012 KP
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