

DEPARTMENT OF TAXATION

2017 Fiscal Impact Statement

1. **Patron** Thomas K. Norment, Jr.

3. **Committee** Senate Finance

4. **Title** County Food and Beverage Tax; York
County

2. **Bill Number** SB 1544

House of Origin:

 X **Introduced**

 Substitute

 Engrossed

Second House:

 In Committee

 Substitute

 Enrolled

5. **Summary/Purpose:**

This bill would allow York County to levy a tax on food and beverages sold for human consumption by a restaurant at a maximum rate of eight percent provided the York County Board of Supervisors holds a public hearing before adopting the tax and agrees by unanimous vote to adopt such tax by local ordinance.

Under current law, every county is authorized to levy a tax on food and beverages sold for human consumption, by a restaurant at a maximum rate of four percent of the amount charged for such food and beverages. Generally, in order for a county to impose the tax, the tax must be approved in a referendum within the county. York County currently levies the tax at four percent.

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

This bill will not impact state or local administrative costs.

Revenue Impact

This bill may have a positive revenue impact on York County to the extent York County decides to increase the food and beverage tax from its current four percent rate. If York County levies the tax at the eight percent maximum rate authorized by this bill, the county could experience a revenue gain of between \$6.1M and \$8.7M annually.

This bill would have no impact on state revenues.

9. Specific agency or political subdivisions affected: York County

10. Technical amendment necessary: No.

11. Other comments:

County Food and Beverage Tax

Every county is authorized to levy a tax on food and beverages sold for human consumption, by a restaurant at a maximum rate of four percent of the amount charged for such food and beverages. The tax must not be levied on food and beverages sold: i) through vending machines; or by: ii) boardinghouses that do not accommodate transients; iii) cafeterias operated by industrial plants for employees; iv) volunteer fire departments and rescue squads, and nonprofit churches and organizations on an occasional basis as a fundraising activity; v) churches to their members; vi) nonprofit cafeterias in public schools; vii) hospitals, nursing homes, medical clinics, convalescent homes; viii) day care centers; ix) home for the aged, infirm, handicapped, battered women, narcotic addicts, or alcoholics; and ix) age restricted apartment complexes. The tax also may not be levied on i) discretionary gratuities; ii) mandatory gratuities and service charges that do not exceed 20% of the sales price; and iii) alcoholic beverages sold in factory sealed containers. The tax does apply to prepared foods ready for human consumption sold at grocery stores and convenience stores.

In order for a county to impose the tax, the tax must be approved in a referendum within the county. The referendum must be initiated either by a resolution of the board of supervisors or by petition, signed by a number of registered voters of the county equal to 10 percent of the number of voters registered in the county on January 1 of the year in which the petition is filed. If the resolution or petition specifies the purposes to which the tax revenues must be dedicated, the question on the ballot for the referendum must include language stating these purposes. Counties that are authorized to impose the tax are not required to hold an additional referendum before they may amend the tax.

The counties of Madison and Rappahannock are authorized to permit bed and breakfast establishments that provide both transient accommodations and food and beverages to combine charges for rooms and meals, and to apply a combined transient occupancy and food and beverage tax to the blended charge imposed by the bed and breakfast establishment. The maximum rate at which the combined tax may be levied is four percent. The food and beverage tax must be approved in a referendum before either county can exercise this authority.

The counties of Roanoke, Rockbridge, Frederick, Arlington, and Montgomery are not required to meet the referendum mandate before the meals tax may be levied. Instead, in those localities, the governing body must hold a public hearing in which they unanimously agree to adopt the tax.

City Meals Tax

All cities and towns are authorized to impose a local meals tax with no rate restrictions and without the need to hold a referendum.

Exemption for Nonprofit Entities

Under current law, the first \$100,000 in gross receipts per calendar year of meals sold by nonprofit entities at fundraising sales is exempt from county food and beverage and city meals taxes so long as the gross proceeds from such sales are used by the organization exclusively for nonprofit, educational, charitable, benevolent, or religious purposes. For purposes of determining whether the \$100,000 gross receipts threshold is exceeded, gross receipts exclude receipts from the first three fundraising sales per calendar year.

Proposal

This bill would allow York County to levy a tax on food and beverages sold for human consumption, by a restaurant at a maximum rate of eight percent provided the York County Board of Supervisors holds a public hearing before adopting the tax and agrees by unanimous vote to adopt such tax by local ordinance.

The effective date of this bill is not specified.

Similar Legislation

Senate Bill 956 would increase the maximum rate at which counties may impose their food and beverage tax without obtaining specific permission from the General Assembly from four to eight percent and also remove the requirement that a county hold a referendum before imposing a meals tax.

Senate Bill 1296 would impose a three year moratorium on any referenda to impose a local food and beverage tax once the voters of a county fail to approve the levy of the tax in a referendum and would also require any referendum held for the purposes of approving a food and beverage tax contain language specifying the total percentage of all ad valorem taxes to be assessed on meals including the proposed four percent meals tax.

cc : Secretary of Finance

Date: 1/22/2017 VB
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