

# DEPARTMENT OF TAXATION

## 2010 Fiscal Impact Statement

1. **Patron** Harvey B. Morgan

2. **Bill Number** HB 1138

3. **Committee** House Finance

**House of Origin:**

  X   **Introduced**

       **Substitute**

       **Engrossed**

4. **Title** County Food and Beverage Tax; All  
Counties May Impose without a Referendum

**Second House:**

       **In Committee**

       **Substitute**

       **Enrolled**

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

This bill would authorize any county on or after July 1, 2010, to enact a county food and beverage tax or increase the tax rate on its current county food and beverage tax with a maximum rate of four percent, without a voter referendum. The local governing bodies of these counties would be required to use the revenues from the tax to reduce the county's real property tax rate.

Under current law, any county may impose a food and beverage tax at a maximum rate of four percent, if the tax is approved in a referendum. The Counties of Arlington, Frederick, Montgomery, Roanoke, and Rockbridge are exempt from this requirement if the governing body holds a public hearing before adopting the tax by local ordinance by a unanimous vote.

The effective date of this bill is not specified.

6. **Fiscal Impact Estimates are:** Not available. (See Line 8.)

7. **Budget amendment necessary:** No.

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

This bill would have no impact on state revenues. To the extent that counties enact new food and beverage taxes or increase the rate of existing taxes, this bill would require counties to reduce their real property tax rates.

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

All localities

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

## 11. Other comments:

### Current Law

Every county is authorized to levy a tax on food and beverages sold for human consumption at a maximum rate of four percent of the amount charged for such food and beverages. The tax may not be levied on food and beverages sold through vending machines, by nonprofit cafeterias in public schools, by nursing homes, and by hospitals. The tax does apply to prepared foods ready for human consumption sold at grocery stores and convenience stores.

In order for a locality to impose the tax, it must be approved in a referendum within the county and must be initiated either by a resolution of the board of supervisors or on the filing of a petition signed by a number of registered voters of the county equal in number to 10 percent of the number of voters registered in the county, as appropriate on January 1 of the year in which the petition is filed with the court of such county. If the board of supervisors' resolution or the petition states the purposes for which revenues collected from the tax are to be used, then the question on the ballot for the referendum must include language stating these purposes.

The Counties of Arlington, Frederick, Montgomery, Roanoke, and Rockbridge are currently authorized to levy a tax on food and beverages sold for human consumption without approval in a referendum. In order to be exempted from the referendum requirement, the governing body of these localities must hold a public hearing before adopting a local food and beverage tax and must, by unanimous vote, adopt the tax by local ordinance.

### Proposal

This bill would authorize any county on or after July 1, 2010 to enact a county food and beverage tax or increase the tax rate on its current county food and beverage tax with a maximum rate of four percent without a voter referendum. The local governing bodies of these counties would be required to use the revenues from the tax to reduce the county's real property tax rate.

The effective date of this bill is not specified.

### Similar Legislation

**House Bill 830** would add Fairfax County to the list of counties that may impose a food and beverage tax without a referendum, provided the governing body votes unanimously to impose the tax.

**Senate Bill 280** would remove the current cap of four percent for the county food and beverage tax and would allow counties to adopt or increase a food and beverage tax by a majority vote of the elected members of the governing body.

cc : Secretary of Finance

