DEPARTMENT OF TAXATION
2010 Fiscal Impact Statement

1. Patron Frederick M. Quayle

2. Bill Number SB 280

House of Origin:
X **Introduced**
____ **Substitute**
____ **Engrossed**

3. Committee Senate Finance

4. Title County Food and Beverage Tax; Removes Cap

Second House:
____ **In Committee**
____ **Substitute**
____ **Enrolled**

5. Summary/Purpose:

This bill would remove the current four percent rate cap on the county food and beverage tax. Beginning July 1, 2010, the bill would also remove the requirement that in order for such a tax to be levied, it must be approved in a referendum within the county. The bill would authorize localities to impose the tax if the governing body of the county holds a public hearing before adopting the county meals tax and the local ordinance imposing the tax is adopted by a majority vote of the elected members of the governing body of the county. Counties would have to satisfy the same requirements in order to increase the rate of tax, once enacted. Counties that have adopted an ordinance prior to July 1, 2010 would not be required to submit an amendment to their food and beverage tax ordinances to the voters in a referendum.

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 increase their current meals tax rates or enact new meals taxes, this bill would generate a revenue gain to counties, the amount of which is unknown. The amount would vary based on the rate imposed and the gross sales of establishments that offer prepared foods.

9. Specific agency or political subdivisions affected:

All counties

10. Technical amendment necessary: No.

11. Other comments:

Generally

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 exempt 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.

Rappahannock County is currently authorized to levy a combined transient occupancy and food and beverage tax on the aggregate charges for rooms and meals in bed and breakfast establishments when such charges are not separately stated. As with the current food and beverage tax that other counties may impose, Rappahannock County may impose this tax at a maximum rate of 4% of the total combined charge for occupancy and food, provided the tax has been approved in a county-wide referendum.

Proposal

This bill would remove the current four percent rate cap on the county food and beverage tax. Beginning July 1, 2010, the bill would also remove the requirement that in order for such a tax to be levied, it must be approved in a referendum within the county. The bill would authorize localities to impose the tax if the governing body of the county holds a public hearing before adopting the county meals tax and the local ordinance imposing the tax is adopted by a majority vote of the elected members of the governing body of the county. Counties would have to satisfy the same requirements in order to increase the

rate of tax, once enacted. Counties that have adopted an ordinance prior to July 1, 2010 would not be required to submit an amendment to their food and beverage tax ordinances to the voters in a referendum. This bill would also remove the referendum and four percent cap requirements for the combined transient occupancy and food and beverage tax Rappahannock County may currently levy on the aggregate charges for rooms and meals in bed and breakfast establishments.

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.

House Bill 1138 would allow all counties to impose the local food and beverage tax without a referendum, provided the revenues from the tax are used to reduce the county's real property tax rate.

cc : Secretary of Finance

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