

**DEPARTMENT OF TAXATION
2010 Fiscal Impact Statement**

REVISED

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

3. **Committee** Senate Finance

4. **Title** Local Cigarette Tax; James City County

2. **Bill Number** SB 578

House of Origin:

 X **Introduced**

 Substitute

 Engrossed

Second House:

 In Committee

 Substitute

 Enrolled

5. Summary/Purpose:

This bill would authorize James City County to levy a local cigarette tax at a rate not to exceed the rate levied under state law. This bill would also remove counties from the grandfather clause that enabled localities that were authorized to impose a local cigarette tax prior to January 1, 1977 to continue to do so.

All cities and towns with general taxing powers are currently authorized to impose a cigarette tax with no rate limitations. Arlington County and Fairfax County are the only counties authorized to impose a local cigarette tax, and they are limited to a rate that does not exceed 5 cents per pack or the amount levied under state law, whichever is greater.

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. This bill would have an unknown revenue impact on James City County. The amount of cigarette tax revenue is unknown because it is not known if James City County would impose a local cigarette tax and at what rate they would impose the tax. However, if James City County was to impose the local cigarette tax at the maximum rate of \$0.30 per pack, passage of this bill would result in an annual revenue gain to James City County of approximately \$774,050.

9. Specific agency or political subdivisions affected:

James City County

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

11. Other comments:

Cigarette Taxes

All cities and towns with general taxing powers are already currently authorized to impose a cigarette tax with no rate limitations. Twenty-nine cities and thirty-two towns currently report imposing a cigarette tax. Currently, 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.

Proposal

This bill would authorize James City County to impose a local cigarette tax at a rate not to exceed the state cigarette tax rate. This bill would also remove counties from the grandfather clause that enabled localities that were authorized to impose a local cigarette tax prior to January 1, 1977 to continue to do so. All cities and towns with general taxing powers are currently authorized to impose a cigarette tax with no rate limitations.

As this bill would not repeal the current authority for cities and towns to impose a cigarette tax with no rate limitations, its effect on the cigarette taxing authority of cities and towns is not clear. A similar inconsistency exists in current law. Under *Va. Code* § 58.1-3840, all cities and towns established with a charter granting general taxing powers to such locality may impose a cigarette excise tax. In contrast, *Va. Code* § 58.1-3830 provides that only counties, cities, and towns may impose a cigarette tax if such county, city, or town had imposed such a tax prior to January 1, 1977. Despite this conflict, the Attorney General ruled in a 1992 opinion, *Opinions of the Attorney General of Virginia*, 1992 at 172, that towns may impose a cigarette excise tax based on the language *Va. Code* § 58.1-3840. It should be noted, however, that *Va. Code* § 58.1-3830 was not discussed in the opinion.

As *Virginia Local Tax Rates, 2008*, published by the Weldon Cooper Center for Public Service, lists the Counties of Arlington and Fairfax as the only counties reporting a local cigarette tax, it appears that no counties currently impose a local cigarette tax under *Va. Code* § 58.1-3830. Thus, this bill should not effect the authority of any county to impose a grandfathered local cigarette tax under *Va. Code* § 58.1-3830.

The effective date of this bill is not specified.

Similar Legislation

House Bill 889 would authorize all counties, cities and towns to impose a local cigarette tax. Any cigarette tax authorized by this bill would be limited to 5 cents per pack or the amount levied under state law, whichever is greater.

House Bill 891 would allow Isle of Wight County to levy a local cigarette tax in addition to the Counties of Arlington and Fairfax.

cc : Secretary of Finance

Date: 1/22/2010 AM
DLAS File Name: SB578F161