

DEPARTMENT OF TAXATION

2013 Fiscal Impact Statement

1. **Patron** A. Donald McEachin

2. **Bill Number** SB 1311

3. **Committee** Senate Finance

House of Origin:

 X **Introduced**

 Substitute

 Engrossed

4. **Title** County Food and Beverages Tax; Authorizes
Additional Counties to Impose

Second House:

 In Committee

 Substitute

 Enrolled

5. **Summary/Purpose:**

This bill would authorize any county that has withdrawn from the secondary state highway system and that is adjacent to a city that also operates its own road system to impose a local food and beverage tax at a maximum rate of four percent of the amount charged for the food and beverages, provided its local governing body unanimously votes to adopt the tax by local ordinance. It appears that the provisions of the bill are intended to apply to Henrico County.

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, however, are excluded from this requirement if the governing body holds a public hearing and unanimously votes to adopt the tax by local ordinance.

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 revenues. To the extent that counties that qualify to adopt the tax by unanimous vote in the future elect to adopt the tax, this bill would increase local revenues in the applicable counties by an unknown amount.

Assuming that Henrico County exercises the authority granted in this bill to impose the tax at the maximum 4% rate, the local revenue gain in Henrico County could be \$20.0 million in Fiscal Year 2014, \$22.4 million in Fiscal Year 2015, \$23.1 million in Fiscal Year 2016, \$24.0 million in Fiscal Year 2017, \$24.8 million in Fiscal Year 2018, and \$25.7 million in Fiscal Year 2019.

9. Specific agency or political subdivisions affected:

Henrico County

Counties that maintain their own roads and are adjacent to cities maintaining their own roads.

10. Technical amendment necessary: No.

11. Other comments:

Food and Beverages 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; 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 x) 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 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 ten 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 of the ballot for the referendum must include language stating these purposes.

The Counties of Arlington, Frederick, Montgomery, Roanoke, and Rockbridge may levy the food and beverages tax at a rate not to exceed four percent of the amount charged for such food and beverages without a referendum. To impose the tax, the governing body must hold a public hearing before adopting a local food and beverage tax and the governing body must, by unanimous vote, adopt the tax by local ordinance.

Road Systems

Current law authorizes localities to withdraw or elect to withdraw from the secondary system of state highways, and to maintain their own highways. Currently, Arlington and Henrico are the only counties that maintain their own highways. Also, all cities in Hampton Roads maintain their own city roads.

Proposal

This bill would authorize any county that has withdrawn from the secondary state highway system and that is adjacent to a city that also operates its own road system to impose a local food and beverage tax at a maximum rate of four percent of the amount charged for the food and beverages without a referendum. Under the terms of the bill, in order to impose the tax, the county's governing body must unanimously vote to adopt the tax in its local ordinance. It appears that the provisions of the bill are intended to apply to Henrico County.

The effective date of this bill is not specified.

cc : Secretary of Finance

Date: 1/21/2013 KP
DLAS File Name: SB 1311