

DEPARTMENT OF TAXATION

2015 Fiscal Impact Statement

1. **Patron** L. Louise Lucas

3. **Committee** Senate Local Government

4. **Title** Food and Beverage Tax; Removes
Referendum Requirement

2. **Bill Number** SB 796

House of Origin:

X **Introduced**

 Substitute

 Engrossed

Second House:

 In Committee

 Substitute

 Enrolled

5. **Summary/Purpose:**

This bill would remove the requirement that a local food and beverage tax be approved in a referendum before a county may levy such a tax. The bill would also eliminate the requirement that the counties of Rappahannock and Madison approve a meals tax by referendum before they may levy a combined transient occupancy and food and beverage tax on combined charges at bed and breakfast establishments.

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. In order for a county to impose the tax, the tax must be approved in a referendum within the county. In addition, the counties of Madison and Rappahannock may permit bed and breakfast establishments to combine its charges for meals and accommodations, and to apply the transient occupancy and county meals taxes to the blended charge at a maximum rate of four percent. The food and beverage tax must be approved in a referendum before either county can exercise this authority.

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 direct impact on the local revenue of the 47 counties that currently impose meals tax. The removal of the referendum requirement, however, would make it easier for other counties to impose the tax. To the extent that the bill increases the number of counties that elect to impose the tax, the bill would result in an increase in local tax revenues, the magnitude of which is unknown.

This bill would have no impact on state revenue.

9. Specific agency or political subdivisions affected:

Counties that do not impose a food and beverage tax

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.

Combined transient occupancy and food and beverage tax

Under current law, 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.

Proposal

This bill would remove the requirement that a local food and beverage tax be approved in a referendum before a county may levy such a tax. The bill would also eliminate the requirement that the counties of Rappahannock and Madison approve a meals tax by referendum before they may levy a combined transient occupancy and food and beverage tax on combined charges at bed and breakfast establishments.

The effective date of this bill is not specified.

Similar Legislation

House Bill 1949 would prohibit a county from holding a referendum proposing the imposition of a food and beverage tax more frequently than every three years.

cc : Secretary of Finance

Date: 1/24/2015 KP
DLAS File Name: SB796F161