

# DEPARTMENT OF TAXATION

## 2017 Fiscal Impact Statement

1. **Patron** Jill Holtzman Vogel

3. **Committee** House Finance

4. **Title** Food and Beverage Tax; Referendum  
Limitations

2. **Bill Number** SB 1296

**House of Origin:**

           **Introduced**

           **Substitute**

           **Engrossed**

**Second House:**

  X   **In Committee**

           **Substitute**

           **Enrolled**

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

This bill would impose a three year moratorium on any referenda to impose a local food and beverage tax once the voters of a county fail to approve the levy of the tax in a referendum. The bill would also require any referendum held for the purposes of approving a food and beverage tax contain language specifying the total percentage of all ad valorem taxes to be assessed on meals including the proposed four percent meals tax.

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. Generally, in order for a county to impose the tax, the tax must be approved in a referendum within the county.

The effective date of this bill is not specified.

6. **Budget amendment necessary:** No.

7. **No Fiscal Impact.** (See Line 8.)

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

This bill would have no impact on local revenues in counties where the voters have already affirmed imposition of a food and beverage tax. To the extent that a county does not affirm a food and beverage tax in a referendum, the bill would delay the county's authority to hold another referendum for three years, thereby delaying any potential revenue gain for that period.

This bill would have no impact on state revenues.

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

Counties lacking authority to levy the food and beverage tax under current law

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 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 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.

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.

The counties of Roanoke, Rockbridge, Frederick, Arlington, and Montgomery are not required to meet the referendum mandate before the meals tax may be levied. Instead, in those localities, the governing body must hold a public hearing in which they unanimously agree to adopt the tax.

### City Meals Tax

All cities and towns are authorized to impose a local meals tax with no rate restrictions and without the need to hold a referendum.

## Proposal

This bill would impose a three year moratorium on any referenda to impose a local food and beverage tax once the voters of a county fail to approve the levy of the tax in a referendum. The bill would also require any referendum held for the purposes of approving a food and beverage tax contain language specifying the total percentage of all ad valorem taxes to be assessed on meals including the proposed four percent meals tax.

The effective date of this bill is not specified.

cc : Secretary of Finance

Date: 2/3/2017 VB  
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