

DEPARTMENT OF TAXATION

2020 Fiscal Impact Statement

1. **Patron** T. Monty Mason

2. **Bill Number** SB 682

3. **Committee** Senate Finance and Appropriations

House of Origin:

 X **Introduced**

 Substitute

 Engrossed

4. **Title** County Food and Beverage Tax;
Referendum and Maximum Rate Change

Second House:

 In Committee

 Substitute

 Enrolled

5. **Summary/Purpose:**

This bill would eliminate the maximum rate of tax that any county may impose on food and beverages sold by a restaurant, commonly referred to as the meals tax. Counties would have no restriction on the food and beverage tax rate permitted to be imposed.

This bill would also remove the requirement that a county hold a referendum before imposing a food and beverage 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.

If enacted during the Regular Session of the 2020 General Assembly, this bill would become effective July 1, 2020.

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

7. **Fiscal Impact Estimates are:** Not available. (See Line 8.)

8. **Fiscal implications:**

Administrative Costs

This bill could result in unknown administrative costs to counties that impose a food and beverage tax. It would have no impact on state administrative costs.

Revenue Impact

This bill could have an unknown positive revenue impact on all counties. It would have no impact on state revenues.

9. **Specific agency or political subdivisions affected:** All counties

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.

Legislation passed in the 2017 General Assembly session, Senate Bill 1296 (2017 *Acts of Assembly*, Chapter 833) required that any food and beverage tax referendum held must include language in the ballot question stating the total tax imposed on prepared food including all ad valorem taxes.

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 under *Va. Code* § 58.1-3840.

Proposal

This bill would eliminate the maximum rate of tax that any county may impose on food and beverages sold by a restaurant, commonly referred to as the meals tax. Counties would have no restriction on the food and beverage tax rate permitted to be imposed.

This bill would also remove the requirement that a county hold a referendum before imposing a food and beverage tax. It would also clarify the authority of Rappahannock County and Madison County to impose a food and beverage tax without limit on the rate that may be imposed, so long as such tax is not combined with a county transient occupancy tax.

If enacted during the Regular Session of the 2020 General Assembly, this bill would become effective July 1, 2020.

Similar Legislation

House Bill 977 and **Senate Bill 799** are substantively identical to this bill, except that neither bill includes a provision clarifying the authority of Rappahannock County and Madison County to impose a food and beverage tax without limit on the rate that may be imposed, so long as such tax is not combined with a county transient occupancy tax.

cc: Secretary of Finance

Date: 1/16/2020 SK
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