

Commission on Local Government

Estimate of Local Fiscal Impact

2022 General Assembly Session

Bill: HB75

Special Session:

Patron: Ware

Date: 1/19/2022

In accordance with the provisions of §30-19.03 of the Code of Virginia, the staff of the Commission on Local Government offers the following analysis of the above-referenced legislation:

Bill Summary:

Local taxing authority. Restricts localities from imposing a transient occupancy tax at a rate that exceeds five percent and provides that any tax revenues from a rate of greater than two percent but less than five percent shall be spent solely for tourism-related and travel-related purposes. The bill also lowers the amount of food and beverage tax that counties can impose from six percent to a total of four percent. Under the bill, a county is able to impose a food and beverage tax at up to two percent without restriction, but that would require approval via a referendum in order to impose the tax at four percent.

Executive Summary:

Localities reported a negative fiscal impact ranging from \$0 to \$5.0 million.

A few localities responded saying the bill would have no fiscal impact, as they are already in compliance with the percentages set forth in the bill. However, some localities also reported negative fiscal impacts stemming from the reductions in transient occupancy and meal tax revenue, in order to comply with the maximum rates the bill allows for. The reductions in revenue these rate decreases varied, but most localities stated it would be a significant revenue loss; estimated of loss revenue ranges from ~2 to 14 cents on the real estate tax rates.

Some localities interpreted the legislation as not applying to cities or towns. However if the legislation does apply to those jurisdictions, then the negative fiscal impacts would increase.

One locality noted that the transient occupancy tax was primarily paid by out of state individuals, rather than members of their locality.

Local Analysis:

Locality: Alleghany County

Estimated Fiscal Impact: \$555,000.00

The Occupancy Tax remains the same as it has been for our county, so there is no impact there.

The county passed the increased meals tax last year and it became effective 1/1/2022 at 6%. The total annual impact of the additional 2% is estimated to be \$250,000 per year (much of it generating from a new truck stop). We are currently in negotiations with the Chamber of Commerce to share this additional 2% with them for tourism efforts. Analysis was based on gross receipts from the past two complete fiscal years, estimating the percentages from those numbers, and prorating for FY 22. At a 2% rate, we lose \$554,876.06 (and the opportunity to additionally boost Tourism efforts). At a 4% rate, we lose \$277,438.03.

The estimated fiscal impact would equate to a 5.5 cent increase in our real estate tax rate to compensate.

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**Locality:** Amherst

**Estimated Fiscal Impact:** \$500,000.00

With the current law allowing a county to impose up to 6% without referendum, we have the potential to increase revenue by at least \$500,000. For our county that is 2 pennies on the real estate tax rate.

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Locality: Augusta County

Estimated Fiscal Impact: \$1,032,000.00

Revenue loss - \$1,032,000

The General Assembly action in 2020 allowed counties to increase lodging tax from 4% to 6%. The County implemented the increase from 4% to 6%, effective July 1, 2021, a delay of one year due to COVID. Funding for tourism was set aside per State Code requirements. This left \$82,263 in additional lodging tax for general fund revenue. The County utilized the additional funding source for fire and rescue staffing. Reducing the maximum percentage would eliminate funds that were allocated for public safety.

The General Assembly action in 2020 allowed counties to increase meals tax from 4% to 6%. The County implemented the increase from 4% to 6%, effective July 1, 2021, a delay of one year due to COVID. This generated \$867,000 in additional meals tax for general fund revenue. The County utilized the additional funding source for fire and rescue staffing. Reverting the maximum percentage would eliminate funds that were allocated for public safety.

The County supported the increase in the taxing percentages in the 2020 General Assembly and before.

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**Locality:** Chesterfield County

**Estimated Fiscal Impact:** \$0.00

Chesterfield County does not exceed 2% occupancy tax or impose a food and beverage tax, resulting in no fiscal impact.

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Locality: City of Alexandria..

Estimated Fiscal Impact: \$0.00

No fiscal impact. As written, it has no anticipated impact on the City of Alexandria.

Locality: City of Danville

Estimated Fiscal Impact: \$0.00

This bills appears to only impact counties. If this would apply to cities that levy the tax, Danville would see a reduction of approximately \$917,000.

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**Locality:** City of Manassas

**Estimated Fiscal Impact:** \$0.00

This bill only applies to Counties. There is no impact to the City of Manassas.

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Locality: City of Roanoke

Estimated Fiscal Impact: \$1,453,125.00

Currently, the City of Roanoke imposes a Transient Occupancy tax of 8%. 3/8ths of this amount is remitted to the Visit Virginia's Blue Ridge tourism bureau. The remaining 5/8ths is part of General Fund revenue and is used to fund general government expenditures. We have estimated total Transient Occupancy revenue for FY23 to be roughly \$3,875,000 at the current 8% rate. Under the proposed legislation, that revenue would decrease to \$2,421,875 (assuming the maximum tax rate of 5%). After factoring in the 3/8ths that is already used for travel/tourism, an additional \$544,922 would need to be restricted for these purposes in order to meet the requirements of the legislation. That would leave \$968,750 for general government use. This represents a negative fiscal impact to the City of Roanoke of \$1,453,125.

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**Locality:** City of Virginia Beach

**Estimated Fiscal Impact:** \$0.00

No impact to the City of Virginia Beach. This legislation only applies to counties.

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Locality: City of Winchester

Estimated Fiscal Impact: \$130,000.00

The City of Winchester charges 6% transient occupancy tax. If all our transient occupancy funds would have to go to tourism, that would be anywhere from \$800,000 to \$1,000,000 Less in our general fund budget. This is wide range, as our transient occupancy numbers are still recovering from COVID effects.

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**Locality:** County of Albemarle

**Estimated Fiscal Impact:** \$3,000,000.00

For Albemarle County, each 1% of TOT above 5% yields \$0.5M and 1% food and beverage tax yields \$2.5M.

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Locality: County of Bland

Estimated Fiscal Impact: \$150,000.00

This bill would be detrimental to rural localities with limited real estate tax base, such as Bland County. With 1/3 of Bland County being National Forest and the remainder mountainous farm land, Bland County has to seek revenues from food and beverage and transient occupancy. Bland County receives approximately \$2.5 million a year in Real Estate Taxes, with close to \$2.4 million going to Bland County Public Schools annually.

Bland County currently follows the five percent with the excess of two percent being spent on tourism. Bland County has a six percent food and beverage tax. If the tax went to four percent, the County would lose approximately \$150,000 in revenue. To make up that loss of funding, Bland County would have to increase its Real Estate Tax levy by six percent.

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**Locality:** County of Mecklenburg

**Estimated Fiscal Impact:** \$0.00

As the currently enacted occupancy tax of our county is 5%, the provision in this bill to cap the tax at 5% would not cause a present fiscal impact to the county. Additionally, the county does not impose a food and beverage tax; accordingly, the portions of the bill that make additions to 58.1-3833 would not impact the county fiscally. As for the text, it would be helpful if Section A.4. was clarified to more affirmatively indicate if the total percent to be written be on the ballot would be inclusive of any meals taxes imposed in towns within a county and if it also includes the sales tax in addition to the food and beverage tax. The text, as written, "of all existing ad valorem taxes applicable to the transaction added to the total county food and beverage tax imposed by this section..." leads to this reading.

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Locality: County of York

Estimated Fiscal Impact: \$0.00

The County already imposes the maximum allowed under this bill. The impact assumes that the food and beverage tax, which is currently at 4% s would remain in place and would not require an additional referendum since it has previously been passed by referendum.

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**Locality:** Fairfax County

**Estimated Fiscal Impact:** \$0.00

Currently, Fairfax County levies a local Transient Occupancy Tax of four percent – the revenue generated by the first two percent is used to support general County expenditures and the revenue from the additional two percent is used to help promote tourism and fund a non-profit convention and visitor's center in Fairfax County. It is important to note that the Commonwealth relies more on local taxes and revenues for funding government services than most other states – Virginia ranks 40th nationwide in state per pupil funding, but when combining state and local per pupil funding, Virginia jumps to 27th, relying heavily on local funding to ensure a high-quality K-12 system (state K-12 spending per FCPS pupil was \$2,704 in FY 2020, while Fairfax County provided \$12,005). Restricting transient occupancy taxes and food and beverage taxes places increased pressure on property taxes to fund local programs and services.

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Locality: Hanover County

Estimated Fiscal Impact: \$450,000.00

The County currently imposes an 8% lodging tax; if the tax is capped at 5%, that would be about a \$450k cost to Hanover. Additionally, this revenue per local ordinance is 100% dedicated to the operations and debt service for the Greater Richmond Convention Center – a regionally owned facility in which their lodging taxes – also 8% - is 100% earmarked to this facility. A reduction in this tax would not only lower local revenues but would result in reductions in funding for the convention center (which focuses on tourism for the region).

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**Locality:** Montgomery County

**Estimated Fiscal Impact:** \$120,000.00

County is already meeting the bill's restrictions on transient occupancy tax.  
County currently has a food and beverage tax of 4%, if the tax was limited to 2%, we estimate that we would loose approximately \$120,000 annually based on current revenue.

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Locality: Norfolk

Estimated Fiscal Impact: \$0.00

N/A. Language uses counties

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**Locality:** Nottoway County

**Estimated Fiscal Impact:** \$1,000.00

Nottoway currently has no resources for food and beverage taxes as each of these entities lies within the boundaries of one of the three incorporated Townships.  
Nottoway currently has only one resource for collecting a transient occupancy tax and it provides very minimal amounts of revenue so such a shift in funding allocations would not pose an immediate fiscal impact to us.

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Locality: Prince George County

Estimated Fiscal Impact: \$0.00

As we understand the legislation this would not impact Prince George County, or our ability to continue to assess lodging tax at 7% or meals tax at 6%; no impact.

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**Locality:** Rappahannock County

**Estimated Fiscal Impact:** \$1.00

For Rappahannock County the fiscal impact of the bill would be \$0 today (because there are statements that nothing herein shall affect the authority previously granted), but would prospectively reduce opportunities to diversify tax revenue. Similar to considerations to eliminate BPOL or sales and use tax on credit card processing fees, curtailment TOT and Meals and Beverage taxes will ultimately shift the revenue collection burden onto other types of local revenue collection that remain available, most notably real estate and personal property taxes. Shifting the burden onto real estate and personal property taxes will disproportionally impact those on fixed income who might otherwise decline to make overnight stays or eat prepared food or beverages. Further, it foregoes the opportunity to collect revenue from out of locality and out of state visitors and rather than collecting from these out of locality visitors, places the burden on property owners. In the end a locality must collect revenue to meet expense requirements and the net fiscal impact will be \$0.

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Locality: Richmond County

Estimated Fiscal Impact: \$0.00

\$0 fiscal impact to Richmond County due to the fact we do not levy this tax.
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**Locality:** Smyth County

**Estimated Fiscal Impact:** \$500,000.00

Smyth County only recently adopted a Meal's Tax (choosing to adopt the full 6%). The revenue estimate of \$500,000 is based on comparisons with the 3 Towns within our borders with the largest affect being on the Meal's Tax (we only receive a small amount of TOT).

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Locality: Stafford County

Estimated Fiscal Impact: \$5,035,213.00

Stafford County currently taxes Transient Occupancy at 5%. Reducing the 7% to 5% would have an impact of reducing the Board of Supervisor's ability to raise an additional \$750,000.

Meals tax is currently at 5%. Each percentage on meals tax is valued at \$2,142,606. This would have the potential of reducing Stafford's collections and inhibit the Board of Supervisor's ability to raise \$2,142,606.

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**Locality:** Town of Blacksburg

**Estimated Fiscal Impact:** \$0.00

Per the bill, the limitations are on counties. We are a town. If the transient occupancy tax limitations were applied to the Town, it would be a loss of \$700,000 of the \$1,200,000 budgeted for FY22.

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Locality: Town of Chincoteague, Inc

Estimated Fiscal Impact: \$1,440,000.00

The Town's transient occupancy and meals taxes both stand at 5% with average annual collections of \$1,600,000 and \$1,000,000 respectively. Revenues from these taxes support public safety, police, EMS and local Infrastructure including water and road maintenance. Levels of service over and above those required by full time residents are necessary to support over 1 million annual visitors. Funding these services from the excise taxes almost, exclusively paid by non-residents, is completely proper.

HR75 would effectively reduce the town's meals and transient occupancy taxes by 60% reducing the annual budget by 30% and forcing a RIF (layoff) in all departments including EMS and Police. As a result, the level of services offered by the town would be significantly reduced for both tourists and full-time residents and require the deferral or cancelation of critical capital improvement projects.

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**Locality:** Town of Christiansburg

**Estimated Fiscal Impact:** \$4,023,550.00

The average lodging tax per 1% for the Town of Christiansburg is \$174,650. A reduction of the current 9% to 5% would be an estimated loss of revenue of \$698,600. The additional 3% loss for Tourism would be \$523,950. The total loss would be \$1,222,550.

The Meals Tax restricted to 4% (from the current 7.5%) - if applicable to Towns - would result in a loss of \$2,801,000.

Total estimated fiscal impact would be \$4,023,550. In order to replace the loss of income for both lodging and meals tax, the property tax rate would be an increase of nearly 30 cents to the current property tax rate for the Town of 16 cents. The burden of the changes would be borne by the residents and tourists that stay in hotels and eat at our restaurants will be getting the amenities they enjoy while visiting for free.

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Locality: Town of Leesburg

Estimated Fiscal Impact: \$100,000.00

We currently have a local TOT rate of 6% that yields approximately \$600K annually. So, if we lowered our rate by 1% we would lose out on approximately \$100,000 annually.

Locality: Town of Luray

Estimated Fiscal Impact: \$250,000.00

The Town of Luray is dependent upon revenue from tourism to offset the increased funding for road and other general fund operations impacted by the increased visitation.

Locality: Town of Marion.

Estimated Fiscal Impact: \$0.00

None to town; all impacts on county

Locality: Town of Scottsville

Estimated Fiscal Impact: \$0.00

This bill could be significant for towns, but it is unclear.

The bill text refers only to counties, setting maximum tax rates and procedures for meals and transient occupancy taxes. The 4% tax rate ceiling does not appear to apply to cities and towns, which have long had greater taxing authority for their increased service levels.

As an example, the Town of Scottsville currently has a 5% transient occupancy tax and a 4.5% meals tax. The meals tax is the Town's largest line item of revenue, being about \$180,000. Capping the rate at 4% would remove about \$20,000 of local revenue and very seriously constrain the Town's future taxing authority.

Do the mutatis mutandis clause and similar equivalency clauses apply the county-level restrictions to towns? If not, the bill has no fiscal impact upon Scottsville and similarly situated small towns.

Locality: Town of Warsaw

Estimated Fiscal Impact: \$0.00

At this time, our Transient Occupancy Tax rate is 5%. However, limiting sources of revenue is untenable in the long term for the financial security of a locality.

Locality: Wise County

Estimated Fiscal Impact: \$0.00

This will have little impact on Wise County as this is the process we are already using.