

# DEPARTMENT OF TAXATION

## 2022 Fiscal Impact Statement

1. **Patron** R. Lee Ware, Jr.

3. **Committee** House Finance

4. **Title** Local Taxing Authority; Transient Occupancy Tax, Food and Beverage Tax

2. **Bill Number** HB 75

**House of Origin:**

  X   **Introduced**

       **Substitute**

       **Engrossed**

**Second House:**

       **In Committee**

       **Substitute**

       **Enrolled**

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

This bill would modify the authority generally granted to all counties to impose transient occupancy taxes by (1) prohibiting any county from imposing a transient occupancy tax at a rate exceeding five percent and (2) requiring that any tax revenues from rates exceeding two percent be spent solely for tourism-related and travel-related purposes. The bill would not affect the authority granted to specific counties to impose additional transient occupancy taxes.

The bill would also reduce the maximum rate of food and beverage tax that counties may impose from six percent to four percent. A county would be able to impose a food and beverage tax at up to two percent without restriction, but would be required to obtain approval via a referendum in order to impose the tax at four percent. No food and beverage tax referendum would be permitted in a county for three calendar years subsequent to the electoral defeat of any previous food and beverage tax referendum.

If enacted during the regular session of the 2022 General Assembly, this bill would become effective July 1, 2022.

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 as a result of local referendum requirements. It would have no impact on state administrative costs.

#### Revenue Impact

This bill could result in an unknown negative revenue impact to counties based on the proposed restrictions. 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:**

Background

Under current law, any county may impose a transient occupancy tax and the rate is not limited by state law. Any county that imposes a tax at a rate exceeding two percent but less than five percent must designate any revenue from the rate exceeding two percent for tourism and travel or for such purpose authorized prior to January 1, 2020. Counties are currently not restricted in their use of revenues from a rate exceeding five percent.

Legislation enacted during the 2020 General Assembly (2020 House Bill 785 and Senate Bill 588, Chapters 1214 and 1263 of the 2020 *Acts of Assembly*) increased the maximum food and beverage tax rate a county may impose from four percent to six percent, and removed a requirement that any food and beverage tax must be approved through a referendum in the county. Under current law, any county is authorized to levy a tax on food and beverages sold by a restaurant at a rate not exceeding six percent. There is currently no requirement for a referendum.

Proposal

This bill would modify the authority generally granted to all counties to impose transient occupancy taxes by (1) prohibiting any county from imposing a transient occupancy tax at a rate exceeding five percent and (2) requiring that any tax revenues from rates exceeding two percent be spent solely for tourism-related and travel-related purposes. The bill would not affect the authority granted to specific counties to impose additional transient occupancy taxes.

Under current law, any county that imposes a transient occupancy tax at a rate exceeding two percent but less than five percent must designate any revenue from the rate exceeding two percent as follows: (1) for such purpose authorized prior to January 1, 2020 or (2) for tourism and travel. This bill would remove the language dedicating the revenues to the purpose authorized prior to January 1, 2020. Counties are currently not restricted in their use of revenues rates exceeding five percent.

The bill would also reduce the maximum rate of the food and beverage tax that any county may impose from six percent to four percent. A county would be able to impose a food and beverage tax at a rate of up to two percent without restriction, but would need to obtain approval via a referendum in order to impose the tax at a rate exceeding two percent.

Under current law, any county is authorized to levy a tax on food and beverages sold by restaurants at a rate not exceeding six percent. There is currently no requirement for a referendum.

If enacted during the regular session of the 2022 General Assembly, this bill would become effective July 1, 2022.

#### Similar Legislation

**House Bill 7** would require accommodations intermediaries to remit county Transient Occupancy Taxes on room charges to the county with supporting documentation as requested by the locality, including the address of the accommodation, the identity of the accommodations provider, and the amount of gross receipts on which the remitted tax was levied.

cc : Secretary of Finance

Date: 1/20/2022 SK  
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