JLARC
JOINT LEGISLATIVE AUDIT
AND REVIEW COMMISSION

Fiscal Impact Review
2020 General Assembly Session

Date: February 4, 2020

Bill number: SB 588 (substitute) Tax authority of localities; parity between cities and counties

Review requested by: Senator Howell, Chair, Senate Finance and Appropriations

JLARC Staff Fiscal Estimates

JLARC staff concur with the fiscal impact statement issued by the Department of Taxation, which indicates that SB 588 would have no fiscal impact on state revenues but would have a positive revenue impact for counties that chose to exercise additional taxing authority. JLARC staff estimate that counties could collect up to $528 million in additional revenue in FY22 if SB 588 were adopted. This is an upper bound estimate that assumes all counties would choose to levy admission, food and beverage, transient occupancy, and cigarette taxes at the maximum rate authorized in SB 588. This estimate is for the proposed substitute version of SB 588 to be considered for adoption by the Senate Finance and Appropriations Committee.

An explanation of the JLARC staff review is included on the pages that follow.

Authorized for release:

Hal E. Greer

Hal E. Greer, Director

Bill summary

The substitute for SB 588 would change the taxing authority of counties for collecting admissions taxes, food and beverage taxes, transient occupancy taxes, and cigarette taxes within their jurisdictions. The changes to county taxing authority would not take effect until July 1, 2021 (FY22), with an exception related to the food and beverage tax. The bill would not change city or town taxing authority with one exception related to the cigarette tax.

Admissions tax. Under current law, counties are not permitted to levy an admissions tax for event attendance unless given specific authority under state law. Only 15 counties have permission to levy an admissions tax, which cannot exceed 10 percent of the price of admission. SB 588 would authorize all counties to levy an admissions tax at a rate not to exceed 10 percent of the price of admission.

Food and beverage tax. Under current law, counties can levy a food and beverage (meals) tax on the price of a meal not to exceed 4 percent, but only if citizens approved the tax through referendum. SB 588 would increase the maximum rate of county meals taxes to 6 percent and would remove the referendum requirement. If a county referendum to impose a meals tax failed to pass on or after July 1, 2018 but before July 1, 2020, the county could not impose a meals tax until July 1, 2022 (FY23).

Transient occupancy tax. Under current law, counties may impose a transient occupancy (lodging) tax of 2 percent on the charge for stays at hotels, motels, boarding houses, travel campgrounds, or other facilities providing lodging for stays less than 30 days. Fifty-four counties are authorized to increase the tax rate to 5 percent, but any revenue collected from the portion of tax exceeding 2 percent must be used for tourism and tourism-related expenses. Ten counties are authorized to charge additional rates.

SB 588 would authorize all counties to levy a transient occupancy tax at a 5 percent rate. The revenue collected from the portion of the tax exceeding 2 percent must be used by the county for tourism and tourism-related expenses. Counties authorized to charge additional rates prior to January 1, 2020 can continue to charge these additional rates.

Cigarette tax. Under current law, only two counties (Arlington and Fairfax) are authorized to levy a tax on cigarettes. SB 588 would authorize all counties to levy a tax on cigarettes at a rate not to exceed 2 cents per cigarette sold, or 40 cents for a regular pack of 20 cigarettes. SB 588 would establish a maximum tax rate of 2 cents per cigarette for cities and towns. If the city or town already taxed cigarettes at a rate higher than 2 cents per pack, the maximum rate would be the rate in effect on January 1, 2020.

Fiscal implications

JLARC staff estimate that counties could collect up to $528 million in additional revenue beginning in FY22 if the proposed substitute to SB 588 were adopted (Table 1). This additional revenue equates to approximately 4 percent of current total tax revenue collected by counties, and most (86%) of the additional revenue would be from meals tax collections. This is an upper bound estimate that assumes all counties would choose to levy each of the four taxes at the maximum rate authorized by SB 588. Localities that choose to impose one or more of these taxes because of the changes in SB 588 would likely bear additional administrative costs, but they could choose not to levy the tax if administrative costs are high relative to expected revenue collections.

TABLE 1
Virginia counties could collect up to $528 million in additional revenue beginning in FY22 because of SB 588 (substitute)

Tax	FY21	FY22	FY23	FY24
Food and beverage (meals)	$0M	$453M	$473M	$492M
Cigarette	0	55	56	57
Admissions	0	16	16	17
Transient occupancy (lodging)	0	4	4	4
Total	**$0M**	**$528M**	**$549M**	**$570M**

SOURCE: JLARC staff analysis of information provided by the Auditor of Public Accounts, Department of Taxation, Weldon Cooper Center for Public Service, and Virginia Tourism Corporation.
NOTE: Estimates account for changes in demand for the taxable goods and are in nominal dollars. To the extent possible, estimates for each county exclude revenue from towns that collect meals, cigarette, lodging, or admissions taxes.

Food and beverage (meals) tax

If all counties levied a meals tax at the maximum rate of 6 percent under SB 588, the estimated additional revenue in FY22 would be $453 million, compared to current locality meals tax revenue of $613 million. Additional revenue collected per county would vary widely from a high of $165 million in Fairfax County to a low of $16,000 in Highland County, with the median county collecting $0.7 million in additional revenue. The estimate assumes the 43 counties that currently impose no tax would begin taxing meals at the maximum rate of 6 percent. It is likely, however, that some counties would not impose a meals tax because they have few restaurants and low food and beverage sales. The estimate also assumes that all 52 counties that currently impose a 4 percent meals tax would increase the tax rate to 6 percent, but it is likely that some localities would not increase the tax rate.

Five counties could not begin taxing meals until FY23 because referendums to allow the counties to tax meals were held between July 1, 2018 and July 1, 2020, and the referendums failed. JLARC staff estimate that the five counties would collectively receive an additional $8 million in meals tax revenue beginning in FY23 if they all began imposing the meals tax at the maximum rate of 6 percent.

Cigarette tax

If all counties levied the maximum tax of 40 cents per pack allowed by SB 588, the estimated additional revenue in FY22 would be $55 million, compared with current local cigarette tax revenue (primarily in cities) of $65 million. The estimated additional tax revenue in the median county is $400,000, although counties with larger populations could receive more than $1 million each in local tobacco tax revenue.

The revenue estimates assume that a 40 cents per pack increase in county tax rates would increase the price of cigarettes and cause a slight decrease in demand. The estimates also account for declining cigarette sales in recent years. If the state increases cigarette taxes, this would further reduce sales of cigarettes and local tobacco tax revenue.

Admissions tax

If all counties levied an admissions tax under SB 588, the estimated additional revenue in FY22 would be $16 million, compared with current local admissions tax revenue (primarily in cities) of $22 million. The estimated additional tax revenue in the median county is about $9,000, although counties with larger populations could receive several hundred thousand dollars in admissions tax revenue.

Admissions tax revenue estimates are based on admissions revenue collected by cities, locality taxable sales for the industry sector "Performing Arts, Spectator Sports, and Related Industries", and population. Potential admissions tax revenue is difficult to estimate because localities vary in the number and size of events and event venues.

Transient occupancy (lodging) tax

If all counties levied a lodging tax at the maximum rate allowed under SB 588, the estimated additional revenue in FY22 would be $4 million, compared with current local lodging tax revenue of $244 million. The additional revenue would vary by county from a high of $497,000 in Frederick County to a low of $3,000 in Nottoway County, with the median county collecting $18,000 in additional revenue. This $4 million estimate assumes the 16 counties that currently do not levy a lodging tax would begin imposing the tax at the maximum rate of 5 percent authorized by SB 588. However, some localities may choose not to levy the tax because they have few hotels or other lodging options in their jurisdiction. This estimate also assumes that counties currently imposing the tax at a rate less than 5 percent will increase the tax rate to the full 5 percent under SB 588, but it is likely that some counties would choose to not increase the tax rate. This estimate also assumes no change in revenue for 10 localities that are currently authorized to impose a lodging tax of more than 5 percent.

Budget amendment necessary? No

Agencies affected: All counties

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Date: February 4, 2020