



Colorado
Legislative
Council
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HB17-1203

FISCAL NOTE

FISCAL IMPACT: State Local Statutory Public Entity Conditional No Fiscal Impact

Drafting Number: LLS 17-0787
Prime Sponsor(s): Rep. Lebsack

Date: February 27, 2017
Bill Status: House Local Government
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BILL TOPIC: LOCAL GOV SPECIAL SALES TAX ON RETAIL MARIJUANA

Summary of Legislation

This bill authorizes counties and statutory cities to collect voter approved special sales taxes on retail marijuana.

The bill specifies that a county tax applies to retail marijuana sales in municipalities within the county if there are no municipal special sales taxes on retail marijuana. If municipalities within the county impose a special sales tax, then the county special sales tax only applies to sales in a municipality if the county and the municipality enter into an intergovernmental agreement regarding the county tax. The bill provides statutory authority to the existing voter approved special sales taxes if they comply with other provisions in the bill.

Background

In 2013, voters passed Proposition AA, which allowed the state to levy a special sales tax and an excise tax on retail marijuana. Home-rule cities also have the authority to levy voter approved taxes on retail and medical marijuana. Proposition AA was silent on the authority of counties and statutory cities to levy sales or excise taxes on retail marijuana.

Voters have approved special sales taxes on marijuana in two counties:

- a 3 percent sales tax on retail marijuana in Adams County; and
- a 3.5 percent tax on retail marijuana in Pueblo County.

Voters have approved excise taxes on retail marijuana in the following 11 counties:

- | | | |
|---------------|-----------|------------|
| • Chaffee | • Jackson | • Routt |
| • Clear Creek | • Ouray | • Saguache |
| • Crowley | • Park | • San Juan |
| • Huerfano | • Pueblo | |

In addition, several statutory cities collect taxes on retail marijuana.

In December 2016, the Colorado court of appeals ruled that counties do not have constitutional or statutory authority to levy a special sales tax on marijuana.

The Department of Revenue collects, administers, and enforces the sales tax on tangible personal property on behalf of counties and statutory cities. However, the bill requires voter approved taxes on retail marijuana to be administered by the local government imposing the tax.

Local Government Impact

This bill provides authority to counties and statutory cities to levy a voter approved special sales tax on retail marijuana and retail marijuana products. This tax would be in addition to sales taxes already imposed on all tangible personal property by the county or statutory city. The jurisdiction levying the sales tax would be responsible for collecting, administering, and enforcing it.

This bill will increase local government revenue for counties and statutory municipalities that have already received voter approval to levy a special sales tax on retail marijuana and are explicitly allowed under this bill. The court of appeals found that these counties do not have the authority to collect the taxes. In addition, there is a conditional revenue increase for counties that receive future voter approval to levy a special sales tax on retail marijuana.

There is also a workload impact for counties and cities to negotiate intergovernmental agreements about how the county special sales tax applies to retail marijuana sales within municipalities when the municipality levies a special sales tax.

Effective Date

The bill takes effect upon signature of the Governor, or upon becoming law without his signature.

State and Local Government Contacts

Counties Municipalities Revenue Information Technology