



HB 17-1203

BUILDING A STRONG PARTNERSHIP WITH COLORADO'S CITIES AND TOWNS

MARIJUANA

ALLOWING SPECIAL SALES TAXES BY STATUTORY ENTITIES

HB 17-1203 - YOUR "YES" VOTE RESPECTFULLY REQUESTED

This legislation would give statutory authority to a county or statutory municipality to adopt – with voter approval – a special sales tax on retail marijuana. This carefully negotiated legislation will preserve prior voter-approved taxing authority that has been declared by the Colorado Court of Appeals to be invalid in the case of Adams County and puts Pueblo County's tax in danger.

CML supports the provision of authority for statutory entities to seek voter approval for a special sales tax, with one important caveat - the authority to preserve fiscal fair play by guarding against double taxation. In 2015, there was a chance to avoid this situation via legislation that mirrored the proper mechanism embodied in this bill. Specifically, county special sales taxes must be restricted to unincorporated areas and municipalities that do not already have a special sales tax, unless an intergovernmental agreement (IGA) specifying a different arrangement is established.

The reasons to ensure that an IGA is in place to prevent applicability of county special sales taxes from within municipalities with their own voter-approved special sales tax are, at a minimum:

1. Special sales tax authority is different. Granting special sales tax authority to counties for a specific product is completely different than a countywide, state-collected general sales tax, and raises the question of double taxation issues. Establishing the ability of counties to selectively tax types of products from within a municipality is completely different than general, countywide taxing authority.
2. Ignores decades of cooperative efforts on county taxation. Municipalities and counties generally collaborate when a county seeks to increase or add a sales tax, and intergovernmental agreements are often established.
3. Impacts. Counties have argued in the past that they need to be able to tax businesses within municipalities because of the impacts they create beyond municipal boundaries. However, businesses in the county will arguably create impacts within municipalities, yet there is no reciprocal ability of a municipality to tax a business outside of its boundaries. Using extraterritorial impact as a justification for taxation only works if applied equitably and opens the door to tax complexity.

CML has long argued that local governments should tax what they license. Licensure represents a direct connection between the business and the government that directly provides services to that business. Short of allowed modification via an IGA that would specify, for example, revenue sharing and combined services, HB 1203 establishes proper limitations on statutory entities' special taxing authority.

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