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FISCAL NOTE

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|-------------------------|--------------------------------|------------------------|---|
| Drafting Number: | LLS 18-0764 | Date: | January 22, 2018 |
| Prime Sponsors: | Sen. Gardner Rep. Becker K. | Bill Status: | Senate Finance |
| | | Fiscal Analyst: | Larson Silbaugh 303-866-4720 Larson.Silbaugh@state.co.us |

Bill Topic: TAXATION OF RETAIL MARIJUANA SALES

Summary of Fiscal Impact:

| | |
|--|--|
| <input type="checkbox"/> State Revenue | <input type="checkbox"/> TABOR Refund |
| <input checked="" type="checkbox"/> State Expenditure (<i>minimal</i>) | <input checked="" type="checkbox"/> Local Government |
| <input type="checkbox"/> State Transfer | <input type="checkbox"/> Statutory Public Entity |

The bill provides legal authority for special districts to collect sales taxes on retail marijuana as long as they levied sales taxes on retail marijuana prior to July 1, 2017. This will increase workload for state agencies and sales tax revenue to special districts in FY 2017-18. The fiscal impact is ongoing.

Appropriation Summary: No appropriation is required.

Fiscal Note Status: The fiscal note reflects the introduced bill.

Summary of Legislation

This bill provides that special districts levying sales taxes on retail marijuana transactions prior to July 1, 2017, retain their authority to levy sales taxes on retail marijuana, irrespective of the state sales tax exemption adopted in Senate Bill 17-267. Local districts must determine if voter approval is required before resuming the local district sales tax on retail marijuana. Special district sales taxes on retail marijuana that ceased on July 1, 2017, will be collected once this bill becomes law.

Background

Senate Bill 17-267 exempted retail marijuana from the state's 2.9 percent sales tax effective July 1, 2017. Consistent with the state 2.9 percent sales tax exemption, the Department of Revenue stopped collecting retail marijuana sales taxes assessed by 14 special districts, including:

- the Regional Transportation District (RTD) in the Denver metropolitan area;
- the Scientific and Cultural Facilities District (SCFD) in the Denver metropolitan area;
- five regional transportation authorities (RTAs) in El Paso, Gunnison, Logan, and San Miguel counties, and in the Roaring Fork Valley in Eagle, Garfield, and Pitkin counties;
- the Summit Combined Housing Authority in Summit County;
- the Montezuma Hospital District in Montezuma County; and
- five metropolitan districts, including three in Eagle County and two in Jefferson County.

The state continues to levy a special sales tax on retail marijuana under Article 28.8 of Title 39, C.R.S.

State Expenditures

The Department of Revenue will have an ongoing workload increase to resume reporting special district sales tax distributions. This will increase the workload within the Office of Research and Analysis by eight hours a month.

Local Government

Assuming each special district determines that no vote is required to collect sales tax on retail marijuana, the bill is expected to increase sales tax revenue to nine special districts as shown in Table 1. The impact is based on the bill becoming law by March 1, 2018.

Table 1
Special District Revenue Increases under SB 18-088

| | FY 2017-18* <i>(current year)</i> | FY 2018-19 | FY 2019-20 |
|---|--|--------------------|--------------------|
| Regional Transportation District | \$1,493,000 | \$7,476,000 | \$8,149,000 |
| Scientific and Cultural Facilities District | \$149,000 | \$748,000 | \$815,000 |
| Gunnison Valley RTA | \$16,000 | \$79,000 | \$87,000 |
| Pikes Peak RTA | Not estimated due to confidentiality requirements. | | |
| Roaring Fork RTA | \$31,000 | \$155,000 | \$169,000 |
| San Miguel RTA | \$2,000 | \$13,000 | \$14,000 |
| Summit Combined Housing Authority | \$22,000 | \$112,000 | \$122,000 |
| Montezuma Hospital District | \$16,000 | \$80,000 | \$87,000 |
| Edwards Metropolitan District | Not estimated due to confidentiality requirements. | | |
| Total | \$1,729,000 | \$8,663,000 | \$9,443,000 |

* The FY 2017-18 impact reflects a three month impact assuming the bill takes effect on March 1, 2018 and taxes will be remitted beginning in April 2018.

The fiscal note is based on the following assumptions. Estimates in Table 1 are based on actual special district sales tax receipts from marijuana retailers during FY 2016-17 and the December 2017 Legislative Council Staff forecast for state marijuana tax revenue. These estimates assume that each district's historical share of statewide marijuana sales will remain constant through FY 2019-20. For the San Miguel RTA, which began collecting sales taxes in January 2017, actual tax revenue remitted between February and June 2017 is used to estimate an entire fiscal year.

For FY 2017-18, all estimates reflect the assessment of sales taxes beginning March 1, 2018. Because sales taxes are remitted by retailers one month after taxes are assessed on transactions, the estimates for FY 2017-18 reflect three months of remittances, representing April 2018 through June 2018.

Estimates reflect the assumed volume of retail marijuana sales, the district sales tax rate, and the presence and size of a district vendor fee. To the extent that district marijuana sales grow faster or slower than the state's, or to the extent that statewide marijuana sales grow faster or slower than forecast, the amount of the fiscal impact will be different than presented in Table 1.

Districts for which revenue estimates are not prepared. The bill is expected to increase revenue to the Pikes Peak RTA and the Edwards Metropolitan District. Both of these districts assessed sales taxes on retail marijuana transactions during FY 2016-17. In both districts, the number of marijuana retailers is small enough that district-wide tax remittance data cannot be shared due to taxpayer confidentiality requirements. Because data are unavailable, there is no basis for an estimate.

Omitted districts. Five districts where retail marijuana exemptions are applied in current law are not expected to incur a fiscal impact because no retail marijuana transactions occur in their jurisdictions. These include:

- South Platte Valley RTA in Sterling;
- Aspen Park Metropolitan District in Conifer;
- Bachelor Gulch Metropolitan District near Avon in Eagle County;
- Southwest Plaza Metropolitan District near Littleton in Jefferson County; and
- Two Rivers Metropolitan District near Gypsum in Eagle County.

To the extent that retail marijuana sales occur in these jurisdictions in future years, the bill will increase revenue to the districts accordingly.

Effective Date

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

State and Local Government Contacts

Local Affairs
Revenue

Regional Transportation District
Special Districts