



Legislative Council Staff

Nonpartisan Services for Colorado's Legislature

FINAL FISCAL NOTE

Drafting Number: LLS 18-1230 Date: August 13, 2018
Prime Sponsors: Sen. Smallwood Bill Status: Signed into Law
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Bill Topic: LOCAL GOVERNMENT RETAIL MARIJUANA TAXES

- Summary of Fiscal Impact:
- State Revenue
- State Expenditure
- State Transfer
- TABOR Refund
- Local Government
- Statutory Public Entity

This bill clarifies that marijuana excise taxes are due when marijuana is transferred between retail marijuana cultivation facilities. In addition, it makes changes to the authority of local governments to levy taxes on retail marijuana. These changes may shift excise tax revenue from municipalities to counties when a marijuana cultivation facility is annexed and reduce marijuana sales taxes to the Edwards Metropolitan District.

Appropriation Summary: For FY 2018-19, this bill requires an appropriation of \$15,840 to the Department of Revenue.

Fiscal Note Status: This fiscal note reflects the enacted bill.

Table 1
State Fiscal Impacts under SB 18-259

Table with 3 columns: Category, FY 2018-19, FY 2019-20. Rows include Revenue, Expenditures (General Fund), Transfers, and TABOR Refund.

## **Summary of Legislation**

This bill makes the following changes to marijuana taxation in Colorado:

- allows a county to continue collecting excise taxes for three years if a marijuana cultivation facility is annexed into a municipality. If this occurs, the municipality is unable to levy its own excise tax until the county's authority to levy an excise tax expires;
- allows counties to use either the wholesale price or the calculated wholesale price to determine excise taxes;
- removes the authority for metropolitan districts to collect a sales tax on retail marijuana; and
- clarifies that the state excise tax is collected when unprocessed marijuana is transferred between marijuana cultivation facilities.

## **State Revenue**

The state collects a 15 percent excise tax on the first transfer of unprocessed marijuana from a cultivation facility to a marijuana retail store or to a marijuana processing facility. This bill clarifies that excise taxes are due when marijuana is transferred between cultivation facilities. This bill has no impact on excise tax revenue because retailers may not accept marijuana unless the excise tax is paid under current law.

## **State Expenditures**

The bill will increase General Fund expenditures by \$15,840 in FY 2018-19 only for the Department of Revenue. This bill requires changes to the Department of Revenue's GenTax software system to capture the amount of marijuana transferred between marijuana cultivation facilities. Changes are programmed by a contractor at a rate of \$250 per hour. The changes in this bill are expected to increase expenditures by \$12,000, representing 48 hours of programming. Testing for the programming changes will require the expenditures for contract personnel totaling \$3,840, representing 160 hours of testing at a rate of \$24 per hour.

## **Local Government**

This bill makes several changes to the authority of local governments to levy taxes on retail marijuana.

**Excise taxes.** Under the bill, counties retain the authority to levy excise taxes on marijuana cultivation facilities when they are annexed into a municipality for three years. The municipality is not allowed to collect excise taxes while counties retain their authority to levy excise taxes. In addition, the bill allows counties to base excise taxes on the actual wholesale price of marijuana, rather than the calculated rate determined by the Department of Revenue. To the extent that a marijuana cultivation facility is annexed into a municipality, this bill will increase county excise tax revenue and reduce municipal excise tax revenue for three years.

**Metropolitan district sales taxes.** Senate Bill 18-088 restored the ability for special districts to collect sales taxes on retail marijuana. This bill eliminates the authority of metropolitan districts to levy sales taxes on retail marijuana. There are five metropolitan districts that levy a sales tax. Only the Edwards Metropolitan District contains a retail marijuana store that is currently collecting sales taxes. Sales tax revenue from the sale of marijuana in Edwards will be reduced by an indeterminate amount. There are less than five marijuana stores in the Edwards Metropolitan District, therefore the Department of Revenue cannot provide the amount of marijuana sales that occur in the district without disclosing confidential taxpayer information.

**Effective Date**

The bill was signed into law by the Governor on June 6, 2018, and took effect on August 8, 2018.

**State Appropriations**

For FY 2018-19, this bill requires a General Fund appropriation of \$15,840 to the Department of Revenue.

**State and Local Government Contacts**

Counties	Municipalities	Revenue
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