

CHAPTER 264

**GOVERNMENT - LOCAL**

SENATE BILL 08-128

BY SENATOR(S) Isgar;  
also REPRESENTATIVE(S) Hodge, Borodkin, Curry, and Labuda.

**AN ACT**

**CONCERNING THE ELIMINATION OF THE STATUTORY LIMIT ON THE TOTAL AMOUNT OF SALES OR USE TAX THAT MAY BE LEVIED BY CERTAIN GOVERNMENTAL ENTITIES.**

*Be it enacted by the General Assembly of the State of Colorado:*

**SECTION 1. Repeal.** 29-2-108, Colorado Revised Statutes, is repealed as follows:

**29-2-108. Limitation on amount.** ~~(1) In no case shall the total sales tax or total use tax imposed by the state of Colorado, any county, and any city or town in any locality in the state of Colorado exceed six and ninety one-hundredths percent; except that this limitation shall not preclude a county sales tax or use tax at a rate not to exceed one percent.~~

~~(2) Repealed.~~

~~(3) A tax imposed pursuant to section 24-90-110.7 (3) (f), 29-1-204.5 (3) (f.1), 29-2-103.7, 29-2-103.8, 29-2-103.9, 29-25-112, 30-11-107.5, 30-11-107.7, 30-11-107.9, 32-18-107, or 37-50-110, C.R.S., and the additional tax authorized by section 30-20-604.5, C.R.S., if imposed, shall be exempt from the six and ninety one-hundredths percent limitation imposed by subsection (1) of this section.~~

~~(4) Any additional increment of sales tax or total use tax which may be imposed by any county pursuant to the provisions of section 29-2-103.5 shall be exempt from the six and ninety one-hundredths percent limitation imposed by subsection (1) of this section.~~

~~(5) Any additional increment of sales tax or use tax imposed by any category IV or category V county, as defined in section 30-2-102, C.R.S., for the specific~~

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*Capital letters indicate new material added to existing statutes; dashes through words indicate deletions from existing statutes and such material not part of act.*

purpose of funding the operations of any health service district created within such county pursuant to the "Special District Act", article 1 of title 32, C.R.S., shall be exempt from the six and ninety one-hundredths percent limitation imposed by subsection (1) of this section. In no case shall such additional increment of sales tax or use tax exceed a rate of one percent. Any tax imposed pursuant to this subsection (5) may be terminated by the board of county commissioners of any such county after notice to the health service district and a public hearing thereon. If any such tax is terminated, the effective date of such termination shall be not less than six months after the decision thereon by the board of county commissioners.

~~(5.5) (a) (I) Any increment of sales tax or use tax imposed by any county for the specific purpose of funding the acquisition, and any costs related to the acquisition, of land or interests in land within such county for open space, parks, or the management of such lands shall be exempt from the six and ninety one-hundredths percent limitation imposed by subsection (1) of this section.~~

~~(H) In no case shall such additional increment of sales tax or use tax exempted pursuant to this subsection (5.5) exceed a rate of one-half of one percent.~~

~~(b) (I) Nothing in this subsection (5.5) shall be construed to limit the amount of sales tax or use tax that any county may levy, collect, or expend in accordance with any provision other than this subsection (5.5) for the purpose of funding the acquisition of land or interests in land within such county for open space, parks, or the management of such lands.~~

~~(H) Any additional increment of sales tax or use tax imposed by a county as provided for in this subsection (5.5) shall supplement and shall not supplant any other county moneys budgeted for similar programs or purposes prior to voter approval of the additional increment of sales tax or use tax.~~

~~(c) Nothing in this subsection (5.5) shall be construed to allow any county to impose an additional increment of sales tax or use tax without the approval of the eligible electors in the county.~~

~~(6) When calculating the total sales tax or total use tax for purposes of this section, any extension of an expiring tax shall be deemed to be in effect from the date of the first imposition of such tax, if the eligible electors of the state, county, city, town, or locality, as applicable, have approved the extension of such tax prior to the expiration of such tax. Nothing in this subsection (6) shall be construed to allow the extension of an expiring tax without the approval of eligible electors in the state, county, city, town, or locality as applicable.~~

~~(7) Any petition measure, to the extent authorized by law, including a measure to extend an expiring tax, that changes the distribution of tax revenue among local governments as provided in a preexisting revenue-sharing ballot measure shall be deemed to be a new tax in effect from the date of the change in the distribution of the tax revenues and shall be subject to any other validly adopted sales or use tax proposal.~~

**SECTION 2.** 24-90-110.7 (3) (f) (I), Colorado Revised Statutes, is amended to read:

**24-90-110.7. Regional library authorities.** (3) The general powers of such authority shall include the following powers:

(f) (I) Subject to the provisions of subsection (9) of this section, to levy, in all of the area described in subparagraph (II) of this paragraph (f) within the boundaries of the authority, a sales or use tax, or both, at a rate not to exceed one percent, upon every transaction or other incident with respect to which a sales or use tax is levied by the state pursuant to the provisions of article 26 of title 39, C.R.S. The tax imposed pursuant to this paragraph (f) is in addition to any other sales or use tax imposed pursuant to law. ~~and is exempt from the limitation imposed by section 29-2-108, C.R.S.~~ The executive director of the department of revenue shall collect, administer, and enforce the sales or use tax, to the extent feasible, in the manner provided in section 29-2-106, C.R.S. However, the executive director shall not begin the collection, administration, and enforcement of a sales and use tax until such time as the financial officer of the authority and the executive director have agreed on all necessary matters pursuant to subparagraph (III) of paragraph (f) of subsection (2) of this section. The executive director shall begin the collection, administration, and enforcement of a sales and use tax on a date mutually agreeable to the department of revenue and the authority.

**SECTION 3.** 29-1-204.5 (3) (f.1) (I), Colorado Revised Statutes, is amended to read:

**29-1-204.5. Establishment of multijurisdictional housing authorities.** (3) The general powers of such authority shall include the following powers:

(f.1) (I) Subject to the provisions of subsection (7.5) of this section, to levy, in all of the area within the boundaries of the authority, a sales or use tax, or both, at a rate not to exceed one percent, upon every transaction or other incident with respect to which a sales or use tax is levied by the state. The tax imposed pursuant to this paragraph (f.1) is in addition to any other sales or use tax imposed pursuant to law. ~~and is exempt from the limitation imposed by section 29-2-108.~~ The executive director of the department of revenue shall collect, administer, and enforce the sales or use tax, to the extent feasible, in the manner provided in section 29-2-106. However, the executive director shall not begin the collection, administration, and enforcement of a sales and use tax until such time as the financial officer of the authority and the executive director have agreed on all necessary matters pursuant to subparagraph (III) of paragraph (e) of subsection (2) of this section. The executive director shall begin the collection, administration, and enforcement of a sales and use tax on a date mutually agreeable to the department of revenue and the authority.

**SECTION 4.** 29-2-103 (2) (a) and (2) (b), Colorado Revised Statutes, are amended to read:

**29-2-103. Countywide sales or use tax - multiple-county municipality excepted.** (2) A county may levy a sales tax, use tax, or both, in whole or in part, in less than the entire county when the following conditions are met:

(a) ~~All municipalities located entirely within the county have agreed to lower their tax rates in order to allow the county tax to be levied within the limitations of~~

~~section 29-2-108;~~

(b) The area to be excluded from the tax levy is comprised solely of a portion of a municipality whose boundaries are located in more than one county; ~~and the total sales tax, use tax, or both in that municipality would exceed the limitations specified in section 29-2-108, if the county tax were collected in that municipality; and~~

**SECTION 5.** 29-2-103.5 (3) (a), Colorado Revised Statutes, is amended to read:

**29-2-103.5. Sales tax for mass transit.** (3) (a) No sales tax, use tax, or both shall be levied pursuant to the provisions of subsection (1) of this section until such proposal has been referred to and approved by the registered electors of the county in accordance with the provisions of this article. ~~The ballot question for any proposal for a sales or use tax increase pursuant to this section shall clearly state that the approval of such sales or use tax may result in a sales or use tax rate in excess of the current limitation imposed by section 29-2-108.~~

**SECTION 6.** 29-2-103.7 (3) (a), Colorado Revised Statutes, is amended to read:

**29-2-103.7. Special taxes for water rights.** (3) (a) No sales tax, use tax, or combination of such taxes shall be levied pursuant to subsection (1) of this section until a ballot proposal for the levying of such taxes has been referred to and approved by the registered electors of the county in accordance with this article. ~~The ballot question for any proposal for a sales or use tax increase pursuant to this section shall clearly state that the approval of such sales or use tax may result in a sales or use tax rate in excess of the current limitation contained in section 29-2-108 (1).~~

**SECTION 7.** 29-2-103.8 (3) (a), Colorado Revised Statutes, is amended to read:

**29-2-103.8. Sales tax for health care services.** (3) (a) No sales tax shall be levied pursuant to the provisions of subsection (1) of this section until the proposal has been referred to and approved by the eligible electors of the county in accordance with the provisions of this article. ~~The ballot question for any proposal for a sales tax increase pursuant to this section shall clearly state that the approval of the sales tax may result in a sales tax rate in excess of the current limitation imposed by section 29-2-108.~~

**SECTION 8.** 29-2-103.9 (3) (a), Colorado Revised Statutes, is amended to read:

**29-2-103.9. Sales tax for mental health care services.** (3) (a) No sales tax shall be levied pursuant to the provisions of subsection (1) of this section until the proposal has been referred to and approved by the eligible electors of the county in accordance with the provisions of this article. ~~The ballot question for any proposal for a sales tax increase pursuant to this section shall clearly state that the approval of the sales tax may result in a sales tax rate in excess of the current limitation imposed by section 29-2-108.~~

**SECTION 9. Repeal.** 29-2-105 (1) (f), Colorado Revised Statutes, is repealed as follows:

**29-2-105. Contents of sales tax ordinances and proposals.** (1) The sales tax ordinance or proposal of any incorporated town, city, or county adopted pursuant to this article shall be imposed on the sale of tangible personal property at retail or the furnishing of services, as provided in paragraph (d) of this subsection (1). Any countywide or incorporated town or city sales tax ordinance or proposal shall include the following provisions:

(f) ~~A provision that, in the event the limitation provided in section 29-2-108 is to be exceeded in any municipality within the county by a proposed county sales or use tax, such limitation shall be exceeded by a stated rate in the named municipality.~~

**SECTION 10.** 29-25-112 (1)(c), Colorado Revised Statutes, is amended to read:

**29-25-112. Power to levy marketing and promotion tax.** (1)(c) A marketing and promotion tax levied in accordance with this section is in addition to any other sales or use tax imposed pursuant to law. ~~and is exempt from the limitation imposed by section 29-2-108.~~

**SECTION 11.** 30-20-604.5 (3), Colorado Revised Statutes, is amended to read:

**30-20-604.5. District sales tax.** (3) The tax authorized by this section shall not be subject to the limitations imposed by section 29-2-108, C.R.S., but in no event shall such tax exceed one percent.

**SECTION 12.** 32-17-113 (1)(d), Colorado Revised Statutes, is amended to read:

**32-17-113. Sales tax imposed - collection - administration of tax.** (1)(d) The sales tax imposed pursuant to paragraph (a) of this subsection (1) is in addition to any other sales or use tax imposed pursuant to law. ~~and is exempt from the limitation imposed by section 29-2-108 (1), C.R.S.~~

**SECTION 13.** 32-18-107 (3), Colorado Revised Statutes, is amended to read:

**32-18-107. Sales tax - collection - administration.** (3) A sales tax levied in accordance with this section is in addition to any other sales or use tax imposed pursuant to law. ~~and is exempt from the limitation imposed by section 29-2-108, C.R.S.~~

**SECTION 14.** 32-19-112 (1)(b), Colorado Revised Statutes, is amended to read:

**32-19-112. Sales tax imposed - collection - administration of tax.** (1)(b) The sales tax imposed pursuant to paragraph (a) of this subsection (1) is in addition to any other sales tax imposed pursuant to law. ~~and is exempt from the limitation imposed by section 29-2-108 (1), C.R.S.~~

**SECTION 15.** 37-50-110 (1)(d), Colorado Revised Statutes, is amended to read:

**37-50-110. Levy and collection of uniform sales and use tax.** (1)(d) The sales and use tax imposed pursuant to paragraph (a) of this subsection (1) is in addition to any other sales and use tax imposed pursuant to law. ~~and is exempt from the limitation imposed by section 29-2-108 (1), C.R.S.~~

**SECTION 16.** 43-4-605 (1) (j) (I), Colorado Revised Statutes, is amended to read:

**43-4-605. Powers of the authority - inclusion or exclusion of property - determination of regional transportation system alignment - fund created.**

(1) In addition to any other powers granted to the authority pursuant to this part 6, the authority has the following powers:

(j) (I) Subject to the provisions of section 43-4-612, to levy, in all or any designated portion of the members of the combination, a sales or use tax, or both, at a rate not to exceed one percent upon every transaction or other incident with respect to which a sales or use tax is levied by the state; except that, on and after January 1, 2006, if the authority includes territory that is within the regional transportation district created and existing pursuant to article 9 of title 32, C.R.S., a designated portion of the members of the combination in which a new tax is levied shall be comprised of entire territories of members of the combination so that the rate of tax imposed pursuant to this part 6 within the territory of any single member of the combination is uniform and except that the authority shall not levy a sales or use tax on any transaction or other incident occurring in any territory located outside the boundaries of the authority and within the boundaries of a municipality as the boundaries of the municipality exist on the date the authority is created without the consent of the governing body of the municipality or outside the boundaries of the authority and within the unincorporated boundaries of a county as the unincorporated boundaries exist on the date the authority is created without the consent of the governing body of the county. Subject to the provisions of section 43-4-612, the authority may elect to levy any such sales or use tax at different rates in different designated portions of the members of the combination; except that, on and after January 1, 2006, if the authority includes territory that is within the regional transportation district, a designated portion of the members of the combination in which a new tax is levied shall be comprised of entire territories of members of the combination so that the rate of tax imposed pursuant to this part 6 within the territory of any single member of the combination is uniform. If the authority so elects, it shall submit a single ballot question that lists all of the different rates to the registered electors of all designated portions of the members of the combination in which the proposed sales or use tax is to be levied. The tax imposed pursuant to this paragraph (j) is in addition to any other sales or use tax imposed pursuant to law. ~~and is exempt from the limitation imposed by section 29-2-108, C.R.S.~~ If a member of the combination is located within more than one authority, the sales or use tax, or both, authorized by this paragraph (j) shall not exceed one percent upon every transaction or other incident with respect to which a sales or use tax is levied by the state. The executive director of the department of revenue shall collect, administer, and enforce the sales or use tax, to the extent feasible, in the manner provided in section 29-2-106, C.R.S. The director shall make monthly distributions of the tax collections to the authority, which shall apply the proceeds solely to the financing, construction, operation, or maintenance of regional transportation systems. The department shall retain an amount not to exceed the net incremental cost of the collection, administration, and enforcement and shall transmit the amount to the state treasurer, who shall credit the same to the regional transportation authority sales tax fund, which fund is hereby created. The amounts so retained are hereby appropriated annually from the fund to the department to the extent necessary for the department's collection, administration,

and enforcement of the provisions of this part 6. Any moneys remaining in the fund attributable to taxes collected in the prior fiscal year shall be transmitted to the authority; except that, prior to the transmission to the authority of such moneys, any moneys appropriated from the general fund to the department for the collection, administration, and enforcement of the tax for the prior fiscal year shall be repaid.

**SECTION 17. Effective date.** This act shall take effect at 12:01 a.m. on the day following the expiration of the ninety-day period after final adjournment of the general assembly that is allowed for submitting a referendum petition pursuant to article V, section 1 (3) of the state constitution, (August 6, 2008, if adjournment sine die is on May 7, 2008); except that, if a referendum petition is filed against this act or an item, section, or part of this act within such period, then the act, item, section, or part, if approved by the people, shall take effect on the date of the official declaration of the vote thereon by proclamation of the governor.

Approved: May 21, 2008