

1 SENATE BILL 265

2 **52ND LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2015**

3 INTRODUCED BY

4 George K. Munoz

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10 AN ACT

11 RELATING TO TAXATION; ALLOWING A GOVERNING BODY TO PERMIT LOCAL
12 LIQUOR EXCISE TAX PROCEEDS TO BE USED FOR WINTER SHELTER FOR
13 THE HOMELESS; MANDATING THAT AT LEAST ONE HUNDRED THOUSAND
14 DOLLARS (\$100,000) OF THE LOCAL LIQUOR EXCISE TAX PROCEEDS BE
15 USED FOR WINTER SHELTER FOR THE HOMELESS.

16
17 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

18 SECTION 1. Section 7-24-10 NMSA 1978 (being Laws 1989,
19 Chapter 326, Section 3, as amended) is amended to read:

20 "7-24-10. AUTHORIZATION TO IMPOSE LOCAL LIQUOR EXCISE
21 TAX--RATE--USE OF PROCEEDS--ELECTION REQUIRED.--

22 A. The majority of the members elected to the
23 governing body may enact or amend an ordinance imposing on any
24 retailer an excise tax on the price paid by the retailer for
25 alcoholic beverages purchased by the retailer upon which the

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1 tax imposed by this section has not been paid. The tax may be
2 imposed at a rate not to exceed six percent, provided that any
3 lower rate shall be an even multiple of one percent. The tax
4 imposed under this section may be referred to as the "local
5 liquor excise tax". Any tax imposed under this section shall
6 be for a period of not more than three years from the effective
7 date of the ordinance imposing the tax.

8 B. ~~[The governing body at the time of enacting]~~ On
9 or after July 1, 2015, each time an ordinance imposing the tax
10 authorized in Subsection A of this section is enacted or
11 amended, the governing body shall ~~[dedicate]~~ provide for:

12 (1) the dedication of the revenue to fund
13 ~~[educational programs and prevention and treatment, including~~
14 ~~social detoxification, of alcoholism and drug abuse]~~ the
15 prevention, evaluation and treatment of substance use disorders
16 and winter shelter for the homeless within the county and for
17 no other purpose; and

18 (2) the dedication of no less than one hundred
19 thousand dollars (\$100,000) of the revenue to winter shelter
20 for the homeless.

21 C. After approval of the ~~[imposition]~~ enactment or
22 amendment of an ordinance imposing a local liquor excise tax by
23 the voters but before the effective date of the ~~[ordinance]~~
24 enactment or amendment, the governing body shall hold a public
25 meeting for the purpose of inviting comment on and suggestions

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1 for the most appropriate programs on which to expend the
2 revenue produced by the tax. The governing body shall invite
3 representatives from the appropriate Indian tribes, nations and
4 pueblos to the meeting. If the governing body awards any
5 contract using funds derived from the local liquor excise tax,
6 it shall do so only through a selection process requiring
7 submission of sealed bids or proposals after public notice of
8 the opportunity to submit the sealed bids or proposals.

9 ~~[G.]~~ D. The governing body enacting or amending an
10 ordinance imposing the local liquor excise tax shall submit the
11 question ~~[of imposing the tax]~~ to the qualified voters of the
12 county at a regular or special election.

13 ~~[D.]~~ E. Only those voters who are registered within
14 the county shall be permitted to vote. The election shall be
15 called, conducted and canvassed in substantially the same
16 manner as provided by law for general elections.

17 ~~[E.]~~ F. If at an election called pursuant to this
18 section the majority of the voters voting on the question vote
19 in the affirmative on the question, then the enactment or
20 amendment of the ordinance ~~[imposing the local liquor excise~~
21 ~~tax shall be]~~ is approved. If at such an election the majority
22 of the voters voting on the question fail to approve the
23 question, then the ordinance ~~[shall be]~~ is disapproved and the
24 question required to be submitted by Subsection B of this
25 section shall not be submitted to the voters for a period of at

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1 least one year from the date of the election.

2 [F-] G. Any ordinance enacted or amended under the
3 provisions of this section [~~that imposes a local liquor excise~~
4 ~~tax or changes the rate of tax imposed~~] shall include an
5 effective date that is the first day of any month that begins
6 no earlier than ninety days after the date of the election. A
7 certified copy of any ordinance imposing a local liquor excise
8 tax shall be mailed or personally delivered to the department
9 within five days after the ordinance is certified to have been
10 approved by the voters.

11 [G-] H. Any ordinance repealing the imposition of a
12 tax under the provisions of this section shall contain an
13 effective date that is the first day of any month beginning no
14 earlier than sixty days from the date the ordinance repealing
15 the tax is adopted by the governing body. A certified copy of
16 any ordinance repealing a local liquor excise tax shall be
17 mailed or personally delivered to the department within five
18 days of the date the ordinance is adopted."

19 **SECTION 2.** Section 7-24-10.1 NMSA 1978 (being Laws 1992,
20 Chapter 35, Section 1, as amended) is amended to read:

21 "7-24-10.1. USE OF TAX PROCEEDS--LOCAL LIQUOR EXCISE TAX
22 COMMITTEE--JOINT POWERS AGREEMENT--COMMUNITY PARTICIPATION.--

23 A. Prior to an election on [~~the~~] a question [of
24 ~~imposing a local liquor excise tax]~~ to be submitted to the
25 voters pursuant to the provisions of the Local Liquor Excise

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1 Tax Act, the governing body of a county shall enter into a
2 joint powers agreement with the governing body of the most
3 populated municipality and the governing bodies of any other
4 municipalities in the county that choose to be parties to the
5 agreement to provide for the use and administration of the tax
6 proceeds. The agreement shall provide for the establishment
7 and appointment of a local liquor excise tax committee to
8 provide advice, assist in preventing duplication and
9 supplanting of program funding and make recommendations to the
10 governing body of the county and the municipal governing bodies
11 that are parties to the agreement on the use of the tax
12 proceeds. The agreement shall:

13 (1) clearly specify the use of the proceeds of
14 the proposed local liquor excise tax, including the
15 identification of specific local programs, agencies or entities
16 that will be funded from the tax proceeds;

17 (2) determine the allocation of election
18 expenses among the parties to the agreement;

19 (3) clearly specify that the detoxification
20 center located within a municipality with a population of not
21 less than fifteen thousand and not more than thirty-five
22 thousand according to the most recent federal decennial census
23 providing social detoxification treatment with the greatest
24 numbers of adult clients shall receive the funding necessary to
25 provide [~~social detoxification of alcohol and drug~~] prevention,

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1 evaluation and treatment of substance use disorders for adults;

2 (4) provide that the remaining proceeds of the
3 proposed local liquor excise tax shall be used [~~to fund social~~
4 ~~detoxification of alcohol and drugs for juveniles and other~~
5 ~~prevention and treatment programs as recommended by the local~~
6 ~~liquor excise tax committee~~] as recommended by the local liquor
7 excise tax committee as follows:

8 (a) at least one hundred thousand
9 dollars (\$100,000) for winter shelter for the homeless; and

10 (b) the remainder for the prevention,
11 evaluation and treatment of substance use disorders for
12 juveniles; and

13 (5) clearly specify that each specific local
14 program, agency or entity that is funded from the tax proceeds
15 shall be audited at its own expense and provide accountability
16 reports to the governing body of the county and municipal
17 governing bodies that are parties to the agreement within
18 thirty days of the end of each quarter of the calendar year,
19 including an itemized breakdown of program services and
20 expenditures.

21 B. Prior to the agreement by the governing body of
22 a county and the municipal governing bodies for use of the
23 proposed local liquor excise tax proceeds, the local liquor
24 excise tax committee established pursuant to the provisions of
25 Subsection A of this section shall conduct a public hearing for

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1 the purpose of inviting public comment on use of the proposed
2 local liquor excise tax proceeds. The committee shall make
3 every effort to provide public notice of the hearing and to
4 invite a broad cross-section of community representatives and
5 groups to comment on community needs. Following the hearing,
6 the committee shall make its funding recommendations to the
7 governing body of the county and the municipal governing
8 bodies.

9 C. On or before April 1 of each calendar year, the
10 governing body of a county or municipality that has entered
11 into an agreement pursuant to Subsection A of this section
12 shall submit to the department of finance and administration a
13 report itemizing the receipts, expenditures and number of
14 clients served pursuant to any such agreement for the preceding
15 calendar year. On or before July 1 of each year, the
16 department of finance and administration shall complete an
17 audit of the county's report submitted pursuant to this section
18 and shall report its findings to the appropriate interim
19 legislative committee before September 1 of that year.

20 D. If a local program, agency or entity receiving
21 funds from local liquor excise tax proceeds fails to timely
22 submit an accountability report pursuant to Paragraph (5) of
23 Subsection A of this section, the county or municipality shall
24 be immediately prohibited from disbursing any further funds to
25 such local program, agency or entity until the delinquent

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1 accountability report has been submitted to and accepted by the
2 governing board of the county and the municipal governing
3 bodies."

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