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FISCAL IMPACT REPORT

SPONSOR Tsosie DATE TYPED 3/01/05 HB _____

SHORT TITLE Liquor License Transfer Citizen Referendum SB 768

ANALYST McSherry

REVENUE

Estimated Revenue		Subsequent Years Impact	Recurring or Non-Rec	Fund Affected
FY05	FY06			
NFI	minimal	indeterminate	Recurring	General Fund

(Parenthesis () Indicate Revenue Decreases)

SOURCES OF INFORMATION

LFC Files

Responses Received From

Regulations and Licensing Department (RLD)

Attorney General's Office (AGO)

SUMMARY

Synopsis of Bill

Senate Bill 768 proposes to amend the existing language of the Liquor Control Act and would add a new section to the Act.

The bill proposes to mandate, rather than allow, a local governing body, a county or municipality, to disapprove the issuance or transfer of liquor licenses if any of the following conditions apply: the proposed location of sale is within an area where alcohol is prohibited by NM law, the location would be in violation of the body's zoning or other ordinances, or the transfer would be "detrimental to the public health, safety or morals of the residents of the local option district."

The bill further proposes to create a new section in the Liquor Control Act which would allow a petition to be filed with the governing body of a city or county, if signed by over 20 percent of the voters in the most recent elections, to request a referendum regarding the issuance of a new license or transfer of an existing license.

If the governing body receives a petition before the end of public hearings required in the existing Liquor Control Act, the question would be required to be put to vote in the next general elec-

tion as a referendum, and the proposed requirement of the board to disapprove transfers for certain reasons, and the standing requirement for notification of RLD within 30 days following the public hearing regarding the decision of the body would not apply. Instead, the results of the referendum would be reported to RLD, and the Alcohol and Gaming Division director would be required to approve the issuance or transfer should the vote be supportive of the measure and disapprove should the vote be unsupportive.

The proposed provision would be applied to applications for issuance and transfer of liquor licenses submitted on or after July 1, 2005.

Significant Issues

The proposed bill would mandate governing bodies to disapprove issuances and transfers of liquor licenses if the issuance or transfer would be detrimental to the morals of the residents of district which could be broadly interpreted; "detriment to morals" is not defined.

The Attorney General's Office points out that this bill does not describe petition format, signatory-qualifications, or penalties for false signature, details that are included in other referendum provisions in state law (NMSA 1978, Section 1-17-1 to 14).

This bill states a petition must be filed "prior to the conclusion of the public hearing." It is not clear if the intent of the bill is prior to the conclusion of the public testimony, or prior to the final decision of the governing body, or another such point.

According the bill's proposed Section 60-6B-4(J), if a petition is submitted, then Section 60-6B-4(F) would not be applicable. Therefore, should a petition result in a referendum vote and receive a favorable outcome, the proposed license would have to be approved by the local governing body and could thus be placed within an area where the sale of alcohol beverages is prohibited by the laws of New Mexico, in areas that would be in violation of the body's zoning or other ordinances, or where the sale would be "detrimental to the public health, safety or morals of the residents of the local option district."

FISCAL IMPLICATIONS

RLD predicts that if the proposed bill is enacted, the economic development in the State Of New Mexico could be adversely affected due to the time it takes (up to four years) to issue or transfer a liquor license. The increased difficulty for license approval could also adversely affect economic development.

Any decision which is brought to a referendum vote would have to be determined in the city or county's next general election.

It is not known whether the proposed bill would increase or decrease the number of applications received by the Regulations and Licensing Department.

ADMINISTRATIVE IMPLICATIONS

An additional referendum vote could increase the administrative workload of the city or county administering the vote.

TECHNICAL ISSUES

The clarity of the bill would be enhanced should the statement “prior to the conclusion of the public hearing” be clarified.

Other state statutes, such as Section 3-14-17, regarding local governing body referendums use the phrase “a petition, signed by the qualified electors in a number more than twenty percent of the average number of voters who voted at the previous four regular municipal elections or more than twenty percent of the number of voters who voted at the previous regular municipal election, whichever is the greater.” The Attorney General’s Office suggests the use of the same language in this bill for increased clarity and consistency.

OTHER SUBSTANTIVE ISSUES

Upon receipt of a petition, the authority of City and County Officials on decisions regarding the issuance of new liquor licenses or on transfers of existing liquor licenses would be eliminated.

If a petition is filed as provided for in the bill, the time required to determine a local government’s decision regarding the transfer or issuance of a liquor license could take several years.

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL?

Petitions for referendum vote on transfers and new alcohol licenses would not be required by New Mexico law under the described conditions.

Local governing boards for cities and counties would not be required to disallow license transfers or issuance of licenses for reasons of the predicted detriment to the public health, safety or morals of the residents of the local option district.

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