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F I S C A L I M P A C T R E P O R T

ORIGINAL DATE 01/31/13
SPONSOR HJC **LAST UPDATED** 02/12/13 **HB** 212/HJCS

SHORT TITLE Allow Counties to Impose Local Liquor Tax **SB**

ANALYST Smith

REVENUE (dollars in thousands)

Estimated Revenue					Recurring or Nonrecurring	Fund Affected
FY13	**FY14**	**FY15**	**FY16**	**FY17**		
$0.0	$0.0	$34,550.0	$34,909.0	$35,423.0	Recurring	County Alcohol & Drug Abuse Programs
$0.0	$0.0	($63.0)	($64.0)	($65.0)	Recurring	TRD Operating Fund

(Parenthesis ( ) Indicate Revenue Decreases)

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY13	FY14	FY15	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
Total	$0.0	$0.0	$63.0	$63.0	Recurring	Taxation and Revenue Department

(Parenthesis ( ) Indicate Expenditure Decreases)

SOURCES OF INFORMATION
LFC Files

Responses Received From
Taxation and Revenue Department (TRD)

SUMMARY

Synopsis of Bill

House Judiciary Committee Substitute for House Bill 212 bill also amends Section 7-24-9

NMSA 1978, to authorize all counties to impose a local liquor excise tax. Definitions of "microbrewer," and "small winegrower," are also added to that section. Section 7-24-10 NMSA 1978, is amended to include the procedure for imposing the tax, and limits are placed on the rates of local liquor excise taxes. Lastly, Section 7-24-15 NMSA 1978, is amended to require that the Taxation and Revenue Department (TRD) collect the proceeds of the taxes imposed pursuant to the act and distribute the net receipts to the county from which the tax revenue was remitted This bill also establishes a new section of the Tax Administration Act effecting the transfer of revenues from local liquor excise tax to each county for which the TRD is collecting a local liquor excise tax.

Maximum local liquor excise tax rates for counties are:

- on spirituous liquors, $.99 per liter;
- on beer (except beer produced by a microbrewer), $.41 per gallon;
- on beer produced by a microbrewer, $0 per gallon;
- on wine (except fortified wine and wine produced by a small winegrower), $.28 per liter;
- on fortified wine, $.93 per liter;
- on wine produced by a small winegrower, $0 per liter;
- on cider, $.25 per gallon.

Effective Date: July 1, 2013

FISCAL IMPLICATIONS

The TRD ignored the new definition of "small winegrower" for this analysis. In any case, this should not materially affect the fiscal impact. Imposition of a local tax prior to 2014 would be unlikely under the requirements for public meetings and voter approval no less than 90 days following voter approval. The revenue impact illustrates the potential full-year impact beginning in FY 2015, and is based on the December 2012 alcoholic beverage volumes forecast for the state liquor excise tax, less the revenue loss subject to changes on McKinley County's existing tax rate (5 percent).

Proposed HJC Substitute for HB-212 -- Illustration of Local Liquor Excise Tax by County		
COUNTY	GRT Pattern (*) 5 Year Average (FY08-FY12) Grand Average	FY2015 County Liquor Excise Tax Revenue
BERNALILLO	36.03%	$ 12,532,873
CATRON	0.11%	37,796
CHAVES	3.22%	1,120,511
CIBOLA	0.80%	279,961
COLFAX	0.42%	147,101
CURRY	2.42%	842,314
DE BACA	0.17%	58,787
DONA ANA	8.30%	2,886,948
EDDY	3.98%	1,385,501
GRANT	1.20%	416,028
GUADALUPE	0.24%	81,881
HARDING	0.04%	14,268
HIDALGO	0.45%	156,633
LEA	4.82%	1,677,644
LINCOLN	1.70%	591,833
LOS ALAMOS	0.33%	114,151
LUNA	1.22%	424,082
MCKINLEY	3.17%	1,101,113
MCKINLEY-Under the Current Law (**)		1,331,643
MCKINLEY (Revenue Loss)		-230,531
MORA	0.03%	9,884
OTERO	2.37%	823,874
QUAY	0.86%	298,385
RIO ARRIBA	0.90%	311,376
ROOSEVELT	0.92%	319,893
SANDOVAL	3.48%	1,210,599
SAN JUAN	4.30%	1,493,917
SAN MIGUEL	1.43%	498,518
SANTA FE	10.32%	3,590,999
SIERRA	0.55%	191,347
SOCORRO	0.61%	213,404
TAOS	2.36%	822,492
TORRANCE	0.46%	161,132
UNION	0.50%	175,025
VALENCIA	2.27%	790,515
Total	100.00%	$ 34,780,785
Total Minus McKinley Co. Loss		$ 34,550,254

(*) Allocation to counties uses retail gross receipts patterns for selected retail categories that tend to include alcoholic beverage sales.

(**) FY12 growth rate of local liquor excise tax was used to estimate the local liquor revenue.

The TRD did not make an adjustment for a price response in liquor demand.

SIGNIFICANT ISSUES

The TRD notes that the proposed tax rate increase in this bill is in proportion to the current state excise tax rates on types of beverages, and so does not affect the comparatively heavier tax burden imposed on certain classes of alcoholic beverages.

New Mexico's tax rates on alcoholic beverages are currently among the highest in the nation, ranking:

- 4th highest on wine
- 11th highest on beer; and
- 22nd highest on spirits.

PERFORMANCE IMPLICATIONS

The TRD notes that the revenue is dedicated to fund "direct program services" for the prevention and treatment of alcoholism and drug abuse within the county and for no other purpose. This would be a slight change to the current use of the revenue for McKinley County, once that county reauthorizes its local liquor excise tax ordinance effective March 1, 2014.

The LFC tax policy of accountability is <u>not</u> met since the TRD is <u>not</u> required in the bill to report annually to an interim legislative committee regarding the data compiled from the reports from taxpayers taking the deduction and other information to determine whether the deduction is meeting its purpose.

ADMINISTRATIVE IMPLICATIONS

The TRD claims significant administrative impact on the TRD would include modifications to existing forms and instructions related to local liquor tax, computer systems development, and revenue accounting and distribution changes. Frequent changes associated with individual counties imposing the tax would be on-going for a number of years. Considerable taxpayer outreach and education would be required to inform wholesalers of counties imposing the tax. Revised audit procedures would be required. Increased inquiries from local governments regarding their revenue flows would be expected. A new tax program similar to the existing CRS program would be needed to implement into GenTax. It would have a high IT impact (1,800 hours). Location codes would need to be programmed in order to distribute to different counties and liquor type codes would be needed to implement the different tax rates on the various types of liquors.

The bill also strikes the 5 percent administrative fee to the TRD for use in administration of the Local Liquor Excise Tax Act. This would mean more than a $60,000 reduction each year in "Other State Funds" that currently support the Revenue Processing Division's budget for the administration of the Act.

The department also notes that the TRD is upgrading its data systems relating to GenTax, requiring that the systems be "locked-down" to any modification until July 1, 2013. The department's IT resources are fully engaged with contractors during this period to test and validate the systems' upgrades, and pursuant to contractual agreements and best-practice standards may not undertake systems changes until system upgrade verifications are completed. The TRD's IT personnel are unavailable to begin to develop systems modifications (e.g., new deductions, data reporting, functionality, etc.) until after July 1st, and therefore NO SYSTEMS CHANGES CAN BE IMPLEMENTED UNTIL OCTOBER 1, 2013, to allow adequate time for development, testing and verification of any new system requirements.

As a result, the TRD will not be able to implement the GenTax modifications necessary to record and claim the tax program changes cannot be made until at least October 1, 2013, after the effective date of the legislation.

TECHNICAL ISSUES

The TRD notes the following technical issues:

- Page 5, line 1, replace (6) with (7).

- Page 6, lines 6-7, "indirect program services" should be defined. For example, if the jurisdiction provides facilities to a contractor to run a program for alcohol prevention and treatment, is this considered a direct program cost or an indirect program cost? This will be restricted revenue for the receiving jurisdiction.

- Page 8, Subsection E, the fact that two counties may enter into a joint powers agreement to share the revenue in a shared municipality will be an added level of complexity. This will cost the Department more in terms of taxpayer education, compliance, and enforcement. This in turn impacts distributions. The location of a particular retailer or wholesaler in these municipalities will become another potential factor upon which businesses may need to amend their returns. As such, it may become possible to see negative net distributions due to amended returns.

The bill needs to specify how frequently the tax would be collected and how frequently the tax would be distributed (monthly/quarterly/annually).

This bill does not contain a sunset date. The LFC recommends adding a sunset date.

Does the bill meet the Legislative Finance Committee tax policy principles?

1. **Adequacy**: Revenue should be adequate to fund needed government services.
2. **Efficiency**: Tax base should be as broad as possible and avoid excess reliance on one tax.
3. **Equity**: Different taxpayers should be treated fairly.
4. **Simplicity**: Collection should be simple and easily understood.
5. **Accountability**: Preferences should be easy to monitor and evaluate

SS/blm:svb