

SENATE FINANCE COMMITTEE SUBSTITUTE FOR
SENATE BILL 397

51ST LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2013

AN ACT

RELATING TO TAXATION; CLARIFYING THE USE OF LOCAL LIQUOR EXCISE
TAX PROCEEDS; INCREASING THE LOCAL LIQUOR EXCISE TAX RATE.

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

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

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

A. The majority of the members elected to the
governing body may enact an ordinance imposing on any retailer
an excise tax on the price paid by the retailer for alcoholic
beverages purchased by the retailer upon which the tax imposed
by this section has not been paid. The tax may be imposed at a
rate not to exceed [~~five~~] six percent, provided that any lower
rate shall be an even multiple of one percent. The tax imposed

1 under this section may be referred to as the "local liquor
2 excise tax". Any tax imposed under this section shall be for a
3 period of not more than three years from the effective date of
4 the ordinance imposing the tax.

5 B. The governing body at the time of enacting an
6 ordinance imposing the tax authorized in Subsection A of this
7 section shall dedicate the revenue to fund educational programs
8 and prevention and treatment, including social detoxification,
9 of alcoholism and drug abuse within the county and for no other
10 purpose. After approval of the imposition of a local liquor
11 excise tax by the voters but before the effective date of the
12 ordinance, the governing body shall hold a public meeting for
13 the purpose of inviting comment on and suggestions for the most
14 appropriate programs on which to expend the revenue produced by
15 the tax. The governing body shall invite representatives from
16 the appropriate Indian tribes, nations and pueblos to the
17 meeting. If the governing body awards any contract using funds
18 derived from the local liquor excise tax, it shall do so only
19 through a selection process requiring submission of sealed bids
20 or proposals after public notice of the opportunity to submit
21 the sealed bids or proposals.

22 C. The governing body enacting an ordinance
23 imposing the local liquor excise tax shall submit the question
24 of imposing the tax to the qualified voters of the county at a
25 regular or special election.

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1 D. Only those voters who are registered within the
2 county shall be permitted to vote. The election shall be
3 called, conducted and canvassed in substantially the same
4 manner as provided by law for general elections.

5 E. If at an election called pursuant to this
6 section [~~a~~] the majority of the voters voting on the question
7 vote in the affirmative on the question, then the ordinance
8 imposing the local liquor excise tax shall be approved. If at
9 such an election [~~a~~] the majority of the voters voting on the
10 question fail to approve the question, then the ordinance shall
11 be disapproved and the question required to be submitted by
12 Subsection B of this section shall not be submitted to the
13 voters for a period of at least one year from the date of the
14 election.

15 F. Any ordinance enacted under the provisions of
16 this section [~~which~~] that imposes a local liquor excise tax or
17 changes the rate of tax imposed shall include an effective date
18 [~~which~~] that is the first day of any month [~~which~~] that begins
19 no earlier than ninety days after the date of the election. A
20 certified copy of any ordinance imposing a local liquor excise
21 tax shall be mailed or personally delivered to the department
22 within five days after the ordinance is certified to have been
23 approved by the voters.

24 G. Any ordinance repealing the imposition of a tax
25 under the provisions of this section shall contain an effective

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1 date ~~[which]~~ that is the first day of any month beginning no
2 earlier than sixty days from the date the ordinance repealing
3 the tax is adopted by the governing body. A certified copy of
4 any ordinance repealing a local liquor excise tax shall be
5 mailed or personally delivered to the department within five
6 days of the date the ordinance is adopted."

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

9 "7-24-10.1. USE OF TAX PROCEEDS--LOCAL LIQUOR EXCISE TAX
10 COMMITTEE--JOINT POWERS AGREEMENT--COMMUNITY PARTICIPATION.--

11 A. Prior to ~~[the]~~ an election on the question of
12 imposing a local liquor excise tax pursuant to the provisions
13 of the Local Liquor Excise Tax Act, the governing body of a
14 county shall enter into a joint powers agreement with the
15 governing body of the most populated municipality and the
16 governing bodies of any other municipalities in the county that
17 choose to be parties to the agreement to provide for the use
18 and administration of the tax proceeds. The agreement shall
19 provide for the establishment and appointment of a local liquor
20 excise tax committee to provide advice, assist in preventing
21 duplication and supplanting of program funding and make
22 recommendations to the governing body of [~~a~~] the county and the
23 municipal governing bodies that are parties to the agreement on
24 the use of the tax proceeds. ~~[and may include agreements that]~~

25 The agreement shall:

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1 (1) clearly specify the use of the proceeds of
2 the proposed local liquor excise tax, including the
3 identification of specific local programs, agencies or entities
4 that will be funded from the tax proceeds; ~~and~~

5 (2) determine the allocation of election
6 expenses among the parties to the agreement;

7 (3) clearly specify that the detoxification
8 center providing social detoxification treatment with the
9 highest numbers of adult clients shall receive the funding
10 necessary to provide social detoxification of alcohol and drug
11 treatment for adults;

12 (4) provide that the remaining proceeds of the
13 proposed local liquor excise tax shall be used to fund social
14 detoxification of alcohol and drugs for juveniles and other
15 prevention and treatment programs as recommended by the local
16 liquor excise tax committee; and

17 (5) clearly specify that each specific local
18 program, agency or entity that is funded from the tax proceeds
19 shall be audited and provide accountability reports, including
20 an itemized breakdown of expenditures.

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

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

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

19 SECTION 3. EFFECTIVE DATE.--The effective date of the
20 provisions of this act is July 1, 2013.