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AN ACT

RELATING TO TAXATION; AMENDING THE DEFINITION OF "COUNTY" IN THE LOCAL LIQUOR EXCISE TAX ACT; INCREASING THE LOCAL LIQUOR EXCISE TAX RATE EXTENDING THE TIME THE TAX CAN BE IMPOSED; PROVIDING THAT CERTAIN REPORTS TO THE DEPARTMENT OF FINANCE AND ADMINISTRATION BE MADE BY FISCAL YEAR.

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

SECTION 1. Section 7-24-9 NMSA 1978 (being Laws 1989, Chapter 326, Section 2) is amended to read:

"7-24-9. DEFINITIONS.--As used in the Local Liquor Excise Tax Act:

A. "alcoholic beverages" means distilled or rectified spirits, potable alcohol, brandy, whiskey, rum, gin and aromatic bitters or any similar alcoholic beverage, including blended or fermented beverages, dilutions or mixtures of one or more of the foregoing containing more than one-half of one percent alcohol, but excluding medicinal bitters;

B. "county" means a class B county having a population of more than seventy thousand but less than eighty thousand, according to the most recent federal decennial census, and having a net taxable value for rate-setting purposes for the 2016 or any subsequent property tax year of more than eight hundred million dollars (\$800,000,000) but

1 less than nine hundred million dollars (\$900,000,000);

2 C. "department" means the taxation and revenue
3 department, the secretary of taxation and revenue or any
4 employee of the department exercising authority lawfully
5 delegated to that employee by the secretary;

6 D. "governing body" means the board of county
7 commissioners of a county;

8 E. "person" means any individual, estate, trust,
9 receiver, cooperative association, club, corporation,
10 company, firm, partnership, joint venture, syndicate or other
11 association; "person" also means, to the extent permitted by
12 law, any federal, state or other governmental unit or
13 subdivision or agency, department or instrumentality thereof;

14 F. "price" means the total amount of money or the
15 reasonable value of other consideration or both paid for
16 alcoholic beverages, inclusive of the amount of any tax paid
17 pursuant to the Liquor Excise Tax Act; and

18 G. "retailer" means any person having a place of
19 business within the county who sells, offers for sale or
20 possesses for the purpose of selling alcoholic beverages
21 within the county."

22 SECTION 2. Section 7-24-10 NMSA 1978 (being Laws 1989,
23 Chapter 326, Section 3, as amended) is amended to read:

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

1 A. The majority of the members elected to the
2 governing body may enact an ordinance imposing on any
3 retailer an excise tax on the price paid by the retailer for
4 alcoholic beverages purchased by the retailer upon which the
5 tax imposed by this section has not been paid. The tax may
6 be imposed at a rate not to exceed nine percent, provided
7 that any lower rate shall be an even multiple of one percent.
8 The tax imposed under this section may be referred to as the
9 "local liquor excise tax". Any tax imposed under this
10 section shall be for a period of not more than eight years
11 from the effective date of the ordinance imposing the tax.

12 B. The governing body at the time of enacting an
13 ordinance imposing the tax authorized in Subsection A of this
14 section shall dedicate the revenue to fund educational
15 programs and prevention and treatment, including social
16 detoxification, of alcoholism and drug abuse within the
17 county and for no other purpose. After approval of the
18 imposition of a local liquor excise tax by the voters but
19 before the effective date of the ordinance, the governing
20 body shall hold a public meeting for the purpose of inviting
21 comment on and suggestions for the most appropriate programs
22 on which to expend the revenue produced by the tax. The
23 governing body shall invite representatives from the
24 appropriate Indian tribes, nations and pueblos to the
25 meeting. If the governing body awards any contract using

1 funds derived from the local liquor excise tax, it shall do
2 so only through a selection process requiring submission of
3 sealed bids or proposals after public notice of the
4 opportunity to submit the sealed bids or proposals.

5 C. The governing body enacting an ordinance
6 imposing the local liquor excise tax shall submit the
7 question of imposing the tax to the qualified voters of the
8 county at a regular or special election.

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

13 E. If at an election called pursuant to this
14 section the majority of the voters voting on the question
15 vote in the affirmative on the question, then the ordinance
16 imposing the local liquor excise tax shall be approved. If
17 at such an election the majority of the voters voting on the
18 question fail to approve the question, then the ordinance
19 shall be disapproved and the question required to be
20 submitted by Subsection B of this section shall not be
21 submitted to the voters for a period of at least one year
22 from the date of the election.

23 F. Any ordinance enacted under the provisions of
24 this section that imposes a local liquor excise tax or
25 changes the rate of tax imposed shall include an effective

1 date that is the first day of any month that begins no
2 earlier than ninety days after the date of the election. A
3 certified copy of any ordinance imposing a local liquor
4 excise tax shall be mailed or personally delivered to the
5 department within five days after the ordinance is certified
6 to have been approved by the voters.

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

16 SECTION 3. Section 7-24-10.1 NMSA 1978 (being Laws
17 1992, Chapter 35, Section 1, as amended) is amended to read:

18 "7-24-10.1. USE OF TAX PROCEEDS--LOCAL LIQUOR EXCISE
19 TAX COMMITTEE--JOINT POWERS AGREEMENT--COMMUNITY
20 PARTICIPATION.--

21 A. Prior to an election on the question of
22 imposing a local liquor excise tax pursuant to the provisions
23 of the Local Liquor Excise Tax Act, the governing body of a
24 county shall enter into a joint powers agreement with the
25 governing body of the most populated municipality and the

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

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

15 (2) determine the allocation of election
16 expenses among the parties to the agreement;

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

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

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

14 B. Prior to the agreement by the governing body of
15 a county and the municipal governing bodies for use of the
16 proposed local liquor excise tax proceeds, the local liquor
17 excise tax committee established pursuant to the provisions
18 of Subsection A of this section shall conduct a public
19 hearing for the purpose of inviting public comment on use of
20 the proposed local liquor excise tax proceeds. The committee
21 shall make every effort to provide public notice of the
22 hearing and to invite a broad cross-section of community
23 representatives and groups to comment on community needs.
24 Following the hearing, the committee shall make its funding
25 recommendations to the governing body of the county and the

1 municipal governing bodies.

2 C. On or before October 1 of each year, the
3 governing body of a county or municipality that has entered
4 into an agreement pursuant to Subsection A of this section
5 shall submit to the department of finance and administration
6 a report itemizing the receipts, expenditures and number of
7 clients served pursuant to any such agreement for the
8 preceding fiscal year.

9 D. If a local program, agency or entity receiving
10 funds from local liquor excise tax proceeds fails to timely
11 submit an accountability report pursuant to Paragraph (5) of
12 Subsection A of this section, the county or municipality
13 shall be immediately prohibited from disbursing any further
14 funds to such local program, agency or entity until the
15 delinquent accountability report has been submitted to and
16 accepted by the governing board of the county and the
17 municipal governing bodies."

18 SECTION 4. EFFECTIVE DATE.--The effective date of the
19 provisions of this act is July 1, 2017. _____