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FISCAL IMPACT REPORT

ORIGINAL DATE 03/01/11

SPONSOR Cook LAST UPDATED _____ HB 541

SHORT TITLE Liquor Dispenser License Changes SB _____

ANALYST Burrows

REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Non-Rec	Fund Affected
FY11	FY12	FY13		
	**	**	Recurring	General Fund

(Parenthesis () Indicate Revenue Decreases)

SOURCES OF INFORMATION

LFC Files

Responses Received From
Regulation and Licensing Department (RLD)

SUMMARY

Synopsis of Bill

House Bill 541 proposes to amend the local option section of the Liquor Control Act to prohibit the public sale, service or consumption of alcoholic beverages in any counties or municipalities that have not become a local option district. The proposal would allow any counties or municipalities that have not become a local option district by July 1, 2011 to petition and hold a general election to authorize the local option district.

The bill also allows petition and general election to limit the number of dispenser's, limited dispenser's and retailer's licenses or to limit or allow a certain number of additional licenses over a period of time in counties and municipalities. If no election is held, there would be no limitation on the number of licenses issued. If a limit is approved through election, the limitation must be resubmitted to the voters after a period of five years. At the subsequent election, the number of limitations could be increased, but not reduced.

The bill would remove language that allows local option districts to vote to disapprove the public sale, service or consumption of alcohol.

House Bill 541 would create a new "limited dispenser" license for use in a restaurant that would allow sales of beer, wine and spirits for on-premise consumption only. At least 55 percent of the

restaurant's gross receipts must come from the sale of food. The sale, service and consumption of alcohol would be required to cease when meal service ceases. The limited dispenser license would not be transferrable either from person to person or from location to location. Owners of this type of license are permitted to hold other license types, but may not apply for or receive special dispenser permits.

The proposal would disallow the issuance of new retailer or dispenser licenses from FY12 through FY18, and would increase the retailer license fee to \$200,000 from \$1,300 for a new license and the dispenser license fee to \$250,000 from \$1,300. The renewal fees for both types of license would remain at \$1,300. The bill would also establish a license fee of \$100,000 for a new limited dispenser license and \$1,300 for a renewal limited dispenser license.

House Bill 541 would remove the random selection process used when the number of applicants for licenses exceeds the number of available licenses, and the expiration of applicants not selected immediately following the selection.

The bill would amend Section 60-6B-12 to only allow transfers of licenses to local option districts until July 1, 2021. It removes the current quota system that limits to 10 the number of transfers to any local option district per year, and language preventing the transfer of licenses below the number allowed by law in the local option district or above the limitations imposed by Section 60-6A-18. The bill also removes language requiring a local option district to hold an election to allow inter-local option district. House Bill 541 also amends Section 60-6B-12 to prohibit transfer dispenser, retailer, rural dispenser, and rural retailer licenses after July 1, 2021.

The bill cleans up language contained in Sections 60-6A-4, 60-6A-5 and 60-6A-10 that references 60-6A-18, which refers specifically to retailer and dispenser licenses. The noted sections apply only to restaurant, club and governmental licenses, so the removal of these provisions would not affect the application of those licenses.

The effective date of the provisions of this bill is July 1, 2011.

FISCAL IMPLICATIONS

According to the Regulation and Licensing Department (RLD), House Bill 541 would create a new license type carrying a fee of \$100,000. The license would be available immediately after an application process. It is unknown how many of these licenses would be issued. The bill also provides for the issuance of new dispenser and retailer licenses carrying fees of \$200,000 and \$250,000 each, but these licenses would not be available until after July 1, 2018. It is unknown how many licenses of these types would be requested.

SIGNIFICANT ISSUES

RLD reports:

Under HB 541, the quota system is repealed and licenses would be permitted to transfer anywhere in the state until July 1, 2021. After that date, dispenser, retailer, rural dispenser, and rural retailer licenses would no longer be transferable from location to location. The bill contains no provision prohibiting the transfer of these licenses from person to person, so that practice would still be permissible. Any dispenser license that leaves its current local option district will still lose its package privilege.

The bill would authorize the issuance of new dispenser and retailer liquor licenses after July 1, 2018. The licenses would be available to new applicants for an initial license fee of between \$200,000 and \$250,000 with no change to the existing annual renewal fee amount...The issuance of new licenses will stimulate economic growth however it will also seriously impact the value of licenses currently in existence. Many of the current license holders have significant capital invested in their licenses that will be reduced or lost with the issuance of new dispenser and retailer licenses. Banks have also taken security interests in liquor licenses to secure loans to license holders that may be impacted by the passage of this bill.

TECHNICAL ISSUES

RLD notes the bill removes the ability of local option districts to vote to disallow alcohol sales. Currently, two unincorporated counties are dry. Curry County and Roosevelt County do not allow the sale, service or consumption of alcohol. The bill does not address how those local option districts will be treated. If counties and municipalities have already voted to be dry, will they be allowed to remain dry or will they be required to allow the issuance of dispenser and retailer licenses?

OTHER SUBSTANTIVE ISSUES

The removal of the random selection process for licenses could lead to the issuance of licenses to favored individuals or establishments.

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

The provisions of the Liquor Control Act and requirements under local option district will remain as in current law.

LKB/mew