SENATE BILL 85

54TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2020

INTRODUCED BY

Gerald Ortiz y Pino

AN ACT

RELATING TO TAXATION; AUTHORIZING ALL COUNTIES TO IMPOSE A
LOCAL LIQUOR EXCISE TAX; EXTENDING THE AMOUNT OF TIME AN
IMPOSITION OF THE TAX MAY BE IN EFFECT; ALLOWING SUBSEQUENT
IMPOSITIONS OF THE TAX; CHANGING HOW THE PROCEEDS FROM THE TAX
MAY BE USED; PROVIDING FOR THE CONTINUATION OF ORDINANCES
IMPOSING THE TAX PRIOR TO THE EFFECTIVE DATE OF THIS ACT.

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

SECTION 1. A new section of the Tax Administration Act is
enacted to read:

"[NEW MATERIAL] TRANSFER OF REVENUE FROM LOCAL LIQUOR
EXCISE TAXES.--A transfer pursuant to Section 7-1-6.1 NMSA 1978
shall be made to each county for which the department is
collecting a local liquor excise tax imposed by that county in
an amount equal to the net receipts attributable to the local
.216365.2
liquor excise tax imposed by that county."

SECTION 2. 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 percent alcohol, but excluding medicinal bitters;

[B.] "county" means a class B county having a population of more than fifty-six thousand but less than seventy-five thousand, according to the most recent federal decennial census or any subsequent decennial census, and having a net taxable value for rate-setting purposes for the 1988 or any subsequent property tax year of more than five hundred million dollars ($500,000,000) but less than seven hundred million dollars ($700,000,000);

[C.] "department" means the taxation and revenue department, the secretary of taxation and revenue or any employee of the department exercising authority lawfully delegated to that employee by the secretary;

[D.] "governing body" means the board of county commissioners of a county;
D. "person" means any individual, estate, trust, receiver, cooperative association, club, corporation, company, firm, partnership, joint venture, syndicate or other association; "person" also means, to the extent permitted by law, any federal, state or other governmental unit or subdivision or agency, department or instrumentality thereof;

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

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

SECTION 3. Section 7-24-10 NMSA 1978 (being Laws 1989, Chapter 326, Section 3, as amended) 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 six percent, provided that any lower rate shall be an even multiple of one percent. The tax imposed
[under] pursuant to this section may be referred to as the
"local liquor excise tax". [Any]

B. A local liquor excise tax imposed [under]
pursuant to this section shall be for a period of not more than
three years from the effective date of the ordinance
imposing the tax. Subsequent ordinances enacted to impose the
tax for succeeding periods shall be made pursuant to this
section.

[B-] C. The governing body at the time of enacting
an ordinance imposing [the tax authorized in Subsection A of
this section] a local liquor excise tax shall dedicate the
revenue to fund [educational programs and] direct program
services for the prevention and treatment, including social
detoxification, of alcoholism and drug abuse within the county
and for no other purpose. After approval of the imposition of
a local liquor excise tax by the voters but before the
effective date of the ordinance, the governing body shall hold
a public meeting for the purpose of inviting comment on and
suggestions for the most appropriate programs on which to
expend the revenue produced by the tax. The governing body
shall invite representatives from the appropriate Indian
tribes, nations and pueblos located in that county to the
meeting. If the governing body awards [any] a contract using
funds derived from the local liquor excise tax, it shall do so
[only through a selection process requiring submission of
.216365.2

- 4 -
sealed bids or proposals after public notice of the opportunity
to submit the sealed bids or proposals.

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

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

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

F. Any ordinance enacted under the provisions of
this section that imposes a local liquor excise tax or changes
the rate of tax imposed shall include an effective date that is
the first day of any month that begins no earlier than ninety
days after the date of the election. A certified copy of any

.216365.2

- 5 -
ordinance imposing a local liquor excise tax shall be mailed or
personally delivered to the department within five days after
the ordinance is certified to have been approved by the voters.

G. Any ordinance repealing the imposition of a tax
under the provisions of this section shall contain an effective
date that is the first day of any month beginning no earlier
than sixty days from the date the ordinance repealing the tax
is adopted by the governing body. A certified copy of any
ordinance repealing a local liquor excise tax shall be mailed
or personally delivered to the department within five days of
the date the ordinance is adopted] pursuant to the Procurement
Code.

D. An ordinance imposing a local liquor excise tax
shall not go into effect until after an election is held and a
majority of the voters of the county voting in the election
votes in favor of imposing the tax. The governing body shall
adopt a resolution calling for an election within sixty days of
the date the ordinance is adopted on the question of imposing
the tax. The question shall be submitted to the voters of the
county as a separate question at a general election or at a
special election called for that purpose by the governing
body. A special election shall be called, conducted and
canvassed in substantially the same manner as provided by law
for general elections.

E. If a majority of the voters voting on the
question approves the ordinance imposing the local liquor
excise tax, the ordinance shall become effective on July 1 or
January 1, whichever date occurs first after the expiration of
at least three months from the date the adopted ordinance is
mailed or delivered to the department. The ordinance shall
include that effective date. If the question of imposing the
local liquor excise tax fails, the governing body shall not
again propose the imposition of the tax for a period of one
year from the date of the election."

SECTION 4. TEMPORARY PROVISION--ORDINANCE ENACTED PRIOR
TO EFFECTIVE DATE OF ACT.--If, prior to the effective date of
this act, a county has enacted an ordinance imposing a local
liquor excise tax, the ordinance and any amount dedicated
pursuant to the ordinance shall continue in effect until the
ordinance expires.

SECTION 5. EFFECTIVE DATE.--The effective date of the
provisions of this act is July 1, 2020.

- 7 -