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FISCAL IMPACT REPORT

ORIGINAL DATE 02/04/21

SPONSOR Soules LAST UPDATED _____ HB _____

SHORT TITLE Local Option For Restaurants SB 136

ANALYST Nichols

REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY21	FY22	FY23		
	Indeterminate	Indeterminate	Recurring	General Fund

(Parenthesis () Indicate Revenue Decreases)

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY21	FY22	FY23	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
Total	NFI	NFI	NFI			

(Parenthesis () Indicate Expenditure Decreases)

SOURCES OF INFORMATION

LFC Files

Economic Development Department (EDD) website
 Regulation and Licensing Department (RLD) website

Responses Received From

Economic Development Department (EDD)
 Regulation and Licensing Department (RLD)

No Response Received

New Mexico Counties (NMC)
 New Mexico Municipal League (NMML)

SUMMARY

Synopsis of Bill

Senate Bill 136 amends the Liquor Control Act (Section 60-6A-4 NMSA 1978) to allow local option districts to approve the issuance of restaurant licenses for the sale of beer and wine and of spirituous liquor distilled and bottle in New Mexico. Currently, the Act only allows a local option district to approve a beer and wine license.

The annual cost of a license for beer and wine and for spirituous liquors distilled and bottled in New Mexico would be \$2,000. The annual cost of a license for beer and wine only would be \$1,050.

If a local option district votes to approve the issuance of restaurant licenses for beer and wine and spirituous liquors, such licenses would only be allowed in locations designated as an enterprise zone, a tax increment development district, an arts and cultural district, a Main Street district, a business improvement district, a frontier community, or another location identified by the Main Street program coordinator or relevant local government as a location in need of revitalization or economic development improvements.

A license applicant must submit evidence to the Regulation and Licensing Department (RLD) that the restaurant is located within an approved designated area.

Restaurants that receive a license for sale of beer and wine and spirituous liquors must adhere to other existing provisions of the Act that apply to restaurant beer and wine licenses, such as ceasing alcohol sales when meal services cease or at 11:00 pm, not selling alcohol for consumption off premises, and deriving at least 60 percent of gross receipts from the sale of meals.

The effective date of this bill is July 1, 2021.

FISCAL IMPLICATIONS

SB136 does not contain an appropriation. RLD indicates there would not be any additional operating budget impact from the creation of the new license type.

It is possible there would be some additional revenue to the state as a result of the creation of a new license type, but it is not clear how much. It is possible that restaurants that currently have a beer and wine only license would apply for the more expensive license that also allows sales of spirits; however, RLD indicates that it expects that most applicants would apply for one of the existing types of licenses.

SIGNIFICANT ISSUES

SB136 would create different standards for the beer and wine only license and the beer and wine and spirits license. The former could be located anywhere in a local option district, as long as it conforms to zoning ordinances. The latter could only be located in certain types of locations as specified in the bill.

The bill would allow a beer and wine and spirits license for a restaurant in a location with a local option district that has “been identified by the main street program coordinator or the relevant local government as a location in need of revitalization or economic development improvements.” The bill does not specify criteria that would be used to make this determination.

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

Senate Bill 6, Senate Bill 320, House Bill 8, and House Bill 164 all propose changes to liquor licenses under the Liquor Control Act.

OTHER SUBSTANTIVE ISSUES

According to the Liquor Control Act (Section 60-5A-1 NMSA 1978), any municipality with a population of over 5,000 may vote to adopt a local option for liquor licensing, regardless of whether the county has adopted local option provisions.

According to the Economic Development Department (EDD), there are 31 affiliated Main Street Districts across the state, 12 Arts & Cultural Districts, eight active Frontier & Native American Community Projects and 26 competed projects. It is not clear how many enterprise zones, tax increment development districts, or business improvement districts exist across the state.

According to RLD, there are currently 712 restaurant licensees in the state, 29 craft distiller licenses, and 13 off-site distiller licensees. There are no quota limitations for restaurant licenses, but not all municipalities or counties have held elections for local option districts to issue restaurant licenses. Restaurant licenses cannot be transferred to different individuals or locations.

Liquor dispenser licenses (including licenses for bars, full service restaurants that serve beer, wine, and spirits, grocery stores, convenience stores, and package liquor stores) are subject to a quota. Dispenser type licenses can be bought and sold, transferred to new locations, or leased. Such licenses often sell for \$300 thousand or more.

According to EDD, the ability for restaurants to sell New Mexico spirits as a secondary source of revenue will be essential in business recovery efforts as the state moves into a post-pandemic future.

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