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Authorizing Counties, Towns and Cities in This State to Impose Sales Taxes

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CHAPTER 328

TAXATION II—SPECIFIC TAXES

COUNTY AND MUNICIPAL SALES TAX
[Tentative placement, 138-10-1 et seq.]

(House Bill No. 1141, By Representatives Mackie, Black, Caywood, Cole, Gebhardt, Gossard, Lamb, Shore, Strahle, Vanderhoof, and Wilder; also Senators Schieffelin, Scott, and Rockwell.)

A N   A C T

AUTHORIZING COUNTIES, TOWNS AND CITIES IN THIS STATE TO IMPOSE SALES TAXES.

Be it enacted by the General Assembly of the State of Colorado:

Section 1. **Legislative declaration.**—The general assembly hereby declares that the imposition of sales taxes by counties, cities of the second class, and incorporated towns in this state affects the flow of commerce within this state and the welfare of the people of this state. The purpose of the general assembly in the enactment of this act is to provide a higher degree of uniformity in any sales taxes imposed by such entities.

Section 2. **Municipal sales tax—referendum.**—Any incorporated town or any city of the second class in this state may adopt a municipal sales tax by ordinance, in accordance with the provisions of this act, but only if such ordinance provides for the submission of such sales tax proposal to an election by the qualified electors of such town or city for their approval or rejection, at a regular municipal election or at a special election called for the purpose if no such regular election will be held within ninety days after the adoption of such ordinance. Such election shall be conducted in the manner provided in the "Colorado Municipal Election Code of 1965". No such ordinance shall be proposed or adopted by any such town or city on or after the date of the adoption of a county-wide sales tax resolution by the board of county commissioners of the county in which all or any portion of such town or city is located until after the date of the election on said county proposal. Nothing in this act shall preclude the initiation of such a proposal by the qualified electors of any such town or city, pursuant to section 70-1-16, C.R.S. 1963.

Section 3. **County-wide sales tax.**—Each county in this state shall be authorized to levy a county-wide sales tax in accordance with the provisions of this act. No county-wide sales tax proposal shall become effective until approved by a majority of the qualified electors of the county voting on such proposal. Such sales tax proposal shall upon approval by a majority of the qualified electors voting thereon be effective throughout the incorporated and unincorporated portions of the county.

Section 4. **Adoption procedures.**—(1) A county-wide sales tax pro-

posal shall be referred to the qualified electors of the county either by resolution of the board of county commissioners or by petition initiated and signed by five per cent of the registered electors of the county.

(2)   Such proposal shall contain a description of the sales tax in accordance with the provisions of this act and shall make provision for any distribution of revenue collections between the county and the incorporated cities and towns within the county. Such proposal shall also state the amount of sales tax to be imposed.

(3)   Such county-wide sales tax proposal by resolution of the board of county commissioners shall be submitted at the next regular general election if there be one within the next succeeding one hundred twenty days after the adoption of such resolution. If no general election is scheduled within such time, the board of county commissioners, in such resolution, shall submit the same to the qualified electors of the county at a special election, called for the purpose and to be held not less than thirty days nor more than ninety days after the adoption of such resolution.

(4)   Upon being presented with a petition requesting a county-wide sales tax proposal signed by five per cent of the registered electors of the county, the board of county commissioners shall, upon certification of the signatures on the petition, submit such proposal to the qualified electors of the county. The sales tax proposal shall be submitted at the next general election if there be one within one hundred twenty days of the filing of the petition. If no general election is scheduled within one hundred twenty days following the date of filing of the petiiton, the board of county commissioners shall submit such sales tax proposal at a special election called not less than thirty nor more than ninety days from the date of filing of the petition.

(5)   Upon the adoption of a resolution by the board of county commissioners as provided in subsection (3) of this section, or upon the filing of a proper petition as provided in subsection (4) of this section, the county clerk shall publish the text of such sales tax proposal four separate times, a week apart, in the official newspaper of the county and each city and incorporated town within the county. The cost of the election shall be paid from the general fund of the county. The conduct of the election shall conform, so far as practicable, to the general election laws of the state.

(6)   If approved by a majority of the qualified electors voting thereon, the county-wide sales tax shall become effective as provided by section 6 (2) of this act.

(7)   If a majority of the qualified electors voting thereon fail to approve the county-wide sales tax at any election, such question shall not again be submitted to the county electors for a period of two years.

Section 5.   **Contents of sales tax ordinances and proposals.**—(1) The sales tax ordinance or proposal of any incorporated town, city, or county adopted pursuant to this act shall be imposed for the privilege of selling tangible personal property at retail. Any county-wide or incorporated town or city sales tax ordinance or proposal shall include the provisions required by this section:

(2)   A provision imposing a tax for the privilege of selling tangible personal property at retail upon every retailer in the incorporated town or city, or county.

(3)   A provision that for the purpose of the sales tax ordinance or

proposal enacted in accordance with this article, all retail sales are consummated at the place of business of the retailer unless the tangible personal property sold is delivered by the retailer or his agent to a destination outside the limits of the local taxing entity or to a common carrier for delivery to a destination outside the limits of the incorporated town or city, or county. The gross receipts from such sales shall include delivery charges, when such charges are subject to the state sales and use tax imposed by article 5 of chapter 138, C.R.S. 1963, as amended, regardless of the place to which delivery is made. In the event a retailer has no permanent place of business in such incorporated town or city, or county, or has more than one place of business, the place or places at which the retail sales are consummated for the purpose of a sales tax imposed by ordinance pursuant to this article shall be determined by the provisions of article 5 of chapter 138, C.R.S. 1963, as amended, and by rules and regulations promulgated by the department of revenue.

(4) A provision that the amount subject to tax shall not include the amount of any sales or use tax imposed by article 5 of chapter 138, C.R.S. 1963, as amended.

Section 6. **Collection, administration, enforcement by director of revenue.**—(1)   The collection, administration, and enforcement of any county-wide or city or town sales tax adopted pursuant to this act shall be performed by the director of revenue in the same manner as the collection, administration, and enforcement of the Colorado state sales tax. Unless otherwise provided in this act, the provisions of article 5 of chapter 138, Colorado Revised Statutes 1963, and any amendments thereto enacted before or after the effective date of this act, shall govern the collection, administration, and enforcement of sales taxes authorized under this act.

(2)   The effective date of any county-wide or city or town sales tax adopted under the provisions of this act shall be either January 1 or July 1 following the date of the election in which such county sales tax proposal is approved; and notice of the adoption of any county sales tax proposal shall be submitted by the county clerk and recorder, or by the clerk of the city council or board of trustees of a city or town, to the director of revenue at least one hundred twenty days prior to the effective date of such tax. In the event that such a sales tax proposal is approved at an election held less than one hundred twenty days prior to the January 1 or July 1 following the date of election, such tax shall not be effective until the next succeeding January 1 or July 1.

(3)   The director of revenue shall, at no charge, administer, collect, and distribute any sales tax imposed in conformity with this act. The director shall make monthly distributions of sales tax collections to the appropriate official in each county and in each incorporated city or town in the amount determined under the distribution formula established in accordance with this act.

(4)   The director of revenue shall, at no charge, administer, collect, and distribute the sales tax of any home rule city upon request of the governing body of such city, if the provisions of the sales tax ordinance of said city corresponds to the requirements of this act for sales taxes imposed by counties, towns, and cities of the second class, and if no use tax is imposed by said city. At the time of making such request, said governing body shall certify to the director of revenue a true copy of said sales tax ordinance.

(5)   The director of revenue may promulgate rules and regulations to carry out the provisions of this act.

Section 7.   **Limitation on applicability.**—(1)   Nothing in this act shall be construed to affect or limit the powers of home rule cities organized under article XX of the constitution to impose, administer, or enforce any local sales tax, except as is provided in section 6 of this act.

(2)   No provision of this act shall be construed to require any incorporated town or city, or county to impose any sales tax, or to increase any sales tax imposed prior to the effective date of this act.

(3)   Nothing in this act shall be construed to invalidate any sales tax adopted by ordinance by any incorporated town or city prior to the effective date of this act. No sales tax of any incorporated town or city, or county, home rule cities excepted, shall conflict with the provisions of the act after January 1, 1968.

Section 8.   **Limitation on amount.**—In no case shall the total sales tax imposed by the state of Colorado, any county and any city or town in any locality in the state of Colorado exceed seven per cent.

Section 9.   **Effective date.**—This act shall take effect on July 1, 1967.

Section 10.   **Severability clause.**—If any provision of this act or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and to this end the provisions of this act are declared to be severable.

Section 11.   **Safety clause.**—The general assembly hereby finds, determines, and declares that this act is necessary for the immediate preservation of the public peace, health, and safety.

Approved: June 8, 1967