



Legislative  
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**HB 18-1062**

**FINAL  
FISCAL NOTE**

**Drafting Number:** LLS 18-0369  
**Prime Sponsors:** Rep. Lebsock

**Date:** August 15, 2018  
**Bill Status:** Postponed Indefinitely  
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**Bill Topic:** SALES TAX ON RETAIL MARIJUANA

**Summary of Fiscal Impact:**

<input checked="" type="checkbox"/> State Revenue	<input type="checkbox"/> TABOR Refund
<input checked="" type="checkbox"/> State Expenditure	<input checked="" type="checkbox"/> Local Government
<input checked="" type="checkbox"/> State Transfer	<input type="checkbox"/> Statutory Public Entity

The bill reduces the special sales tax rate on retail marijuana and eliminates the exemption on retail marijuana from the state's 2.9 percent sales tax. The bill reduces total state revenue, changes the distribution of revenue into the General Fund and cash funds, and increases revenue to certain special districts. These are ongoing impacts.

**Appropriation Summary:** For FY 2017-18, the bill requires an appropriation of \$3,250 to the Department of Revenue.

**Fiscal Note Status:** The fiscal note reflects the introduced bill. This bill was not enacted into law; therefore, the impacts identified in this analysis do not take effect.

**Table 1  
State Fiscal Impacts Under HB 18-1062**

		FY 2017-18* (current year)	FY 2018-19	FY 2019-20
<b>Revenue</b>	Cash Funds	(\$0.3 million)	(\$1.2 million)	(\$1.3 million)
	<b>Total</b>	<b>(\$0.3 million)</b>	<b>(\$1.2 million)</b>	<b>(\$1.3 million)</b>
<b>Expenditures</b>	General Fund	\$3,250		
	<b>Total</b>	<b>\$3,250</b>		
<b>Diversions</b>	General Fund	-	(\$4.9 million)	(\$5.4 million)
	Cash Funds	(\$0.3 million)	\$3.7 million	\$4.1 million
	<b>Total</b>	<b>(\$0.3 million)</b>	<b>(\$1.2 million)</b>	<b>(\$1.3 million)</b>

\* The FY 2017-18 impact reflects a three month impact because the bill takes effect on March 1, 2018 and taxes will be remitted beginning in April 2018.

**Summary of Legislation**

The bill eliminates the state's 2.9 percent sales tax exemption on retail (non-medical) marijuana and reduces the state special sales tax rate on retail marijuana from 15 percent to 12.1 percent effective March 1, 2018. Eliminating the state sales tax exemption on retail marijuana allows 14 special districts that use the state's sales tax base to collect revenue on retail marijuana.

**Background**

Senate Bill 17-267 exempted sales of retail marijuana from the 2.9 percent state sales tax and increased the marijuana special sales tax from 10 percent to 15 percent on these sales.

Consistent with the state exemption, as administered by the Department of Revenue (DOR), retail marijuana is exempt from the sales taxes currently assessed by 14 special districts, including:

- the Regional Transportation District (RTD) in the Denver metropolitan area;
- the Scientific and Cultural Facilities District (SCFD) in the Denver metropolitan area;
- five regional transportation authorities (RTAs) in El Paso, Gunnison, Logan, and San Miguel counties, and in the Roaring Fork Valley in Eagle, Garfield, and Pitkin counties;
- the Summit Combined Housing Authority in Summit County;
- the Montezuma Hospital District in Montezuma County; and
- five metropolitan districts, including three in Eagle County and two in Jefferson County.

**State Revenue**

This bill will reduce state revenue by \$0.3 million in FY 2017-18, the current fiscal year, \$1.2 million in FY 2018-19, and \$1.3 million in FY 2019-20 and thereafter. Table 2 shows the change in revenue for the state marijuana special sales tax and the state 2.9 percent sales tax.

**Table 2**  
**Change in Revenue Under HB 18-1062**

	<b>FY 2017-18*</b> <i>(current year)</i>	<b>FY 2018-19</b>	<b>FY 2019-20</b>
Marijuana Special Sales Tax	(\$7.7 million)	(\$35.1 million)	(\$38.3 million)
2.9% State Sales Tax	\$7.4 million	\$33.9 million	\$37.0 million
<b>Total</b>	<b>(\$0.3 million)</b>	<b>(\$1.2 million)</b>	<b>(\$1.3 million)</b>

\* The FY 2017-18 impact reflects a three month impact because the bill takes effect on March 1, 2018 and taxes will be remitted beginning in April 2018.

The revenue estimates above are based on the December 2017 Legislative Council Staff revenue forecast. The FY 2017-18 estimates reflect the assessment of sales taxes beginning March 1, 2018. Because sales taxes are remitted by retailers one month after taxes are assessed on transactions, the estimates for FY 2017-18 reflect remittances for April 2018 through June 2018. The change in tax rates do not offset each other because retailers that file their 2.9 percent sales tax returns on time are allowed to retain 3.33 percent of the sales tax revenue they collect on behalf of the state. This is referred to as the vendor fee.

**TABOR Refund**

The special sales tax is voter approved revenue exempt from TABOR while the state's 2.9 percent sales tax is subject to TABOR. The bill increases state revenue subject to TABOR by \$7.4 million in FY 2017-18, \$33.9 million in FY 2018-19, and \$37.0 million in FY 2019-20. State revenue is not currently expected to exceed the TABOR limit in any of these years and no refund is required. Therefore, the bill is not expected to impact TABOR refunds in these years. However, refunds in future years when the state next collects a TABOR surplus will be increased.

**State Diversions**

The special sales tax and the 2.9 percent sales tax on retail marijuana are diverted to local governments, the General Fund, and various cash funds in the state. Changing the revenue collected from these tax streams changes the distribution to the funds shown in Table 3.

**Table 3  
Change in Diversions Under HB 18-1062**

	<b>FY 2017-18*</b> <i>(current year)</i>	<b>FY 2018-19</b>	<b>FY 2019-20</b>
<b>Special Sales Tax</b>	<b>(\$7.7 million)</b>	<b>(\$35.1 million)</b>	<b>(\$38.3 million)</b>
<b>Local Share (10%)</b>	<b>(\$0.8 million)</b>	<b>(\$3.5 million)</b>	<b>(\$3.8 million)</b>
<b>State Share (90%)</b>	<b>(\$6.9 million)</b>	<b>(\$31.6 million)</b>	<b>(\$34.4 million)</b>
Marijuana Tax Cash Fund	(\$5.0 million)	(\$22.7 million)	(\$24.7 million)
General Fund	-	(\$4.9 million)	(\$5.4 million)
State Public School Fund	(\$1.9 million)	(\$4.0 million)	(\$4.3 million)
<b>2.9% State Sales Tax</b>	<b>\$7.4 million</b>	<b>\$33.9 million</b>	<b>\$37.0 million</b>
Marijuana Tax Cash Fund	\$7.4 million	\$33.9 million	\$37.0 million
<b>Marijuana Tax Cash Fund Total</b>	<b>\$2.5 million</b>	<b>\$11.2 million</b>	<b>\$12.3 million</b>
<b>Net Revenue Impact</b>	<b>(\$0.3 million)</b>	<b>(\$1.2 million)</b>	<b>(\$1.3 million)</b>

\* The FY 2017-18 impact reflects a three month impact because the bill takes effect on March 1, 2018 and taxes will be remitted beginning in April 2018.

**State Expenditures**

The bill increases General Fund expenditures for the Department of Revenue by \$3,250 in FY 2017-18, the current budget year, to program the tax rate changes in GenTax, the state's tax administration software. This is based on 13 hours of programing and testing at a rate of \$250 per hour.

**Local Government**

This bill will reduce the local government distribution of the marijuana special sales tax and increase sales tax collections of nine special districts. Cities and counties that allow the retail marijuana sales receive 10 percent of the special sales tax revenue on retail marijuana. This bill

will reduce distributions to cities and counties by \$0.8 million in FY 2017-18, \$3.5 million in FY 2018-19, and \$3.8 million in FY 2019-20. In addition, eliminating the state's 2.9 percent sales tax exemption on retail marijuana will restore the sales tax on retail marijuana assessed by 14 special districts.

Five districts where retail marijuana exemptions are applied in current law are not expected to incur a fiscal impact because no retail marijuana transactions occur in their jurisdictions. These include:

- South Platte Valley RTA in Sterling;
- Aspen Park Metropolitan District in Conifer;
- Bachelor Gulch Metropolitan District near Avon in Eagle County;
- Southwest Plaza Metropolitan District near Littleton in Jefferson County; and
- Two Rivers Metropolitan District near Gypsum in Eagle County.

To the extent that retail marijuana sales occur in these jurisdictions in future years, the bill will increase revenue to the districts accordingly.

The bill is expected to increase sales tax revenue to nine special districts as shown in Table 4.

**Table 4**  
**Special District Revenue Increases Under HB 18-1062**

	FY 2017-18* <i>(current year)</i>	FY 2018-19	FY 2019-20
Regional Transportation District	\$1,493,000	\$7,476,000	\$8,149,000
Scientific and Cultural Facilities District	\$149,000	\$748,000	\$815,000
Gunnison Valley RTA	\$16,000	\$79,000	\$87,000
Pikes Peak RTA	Not estimated due to confidentiality requirements.**		
Roaring Fork RTA	\$31,000	\$155,000	\$169,000
San Miguel RTA	\$2,000	\$13,000	\$14,000
Summit Combined Housing Authority	\$22,000	\$112,000	\$122,000
Montezuma Hospital District	\$16,000	\$80,000	\$87,000
Edwards Metropolitan District	Not estimated due to confidentiality requirements.**		
<b>Total</b>	<b>\$1,729,000</b>	<b>\$8,663,000</b>	<b>\$9,443,000</b>

\* The FY 2017-18 impact reflects a three month impact because the bill takes effect on March 1, 2018 and taxes will be remitted beginning in April 2018.

\*\* In both districts, the number of marijuana retailers is small enough that district-wide tax remittance data cannot be shared due to taxpayer confidentiality requirements.

**Assumptions.** Estimates in Table 4 are based on actual special district sales tax receipts from marijuana retailers during FY 2016-17 and the December 2017 Legislative Council Staff forecast for state marijuana tax revenue. These estimates assume that each district's share of statewide marijuana sales will remain constant through FY 2019-20. For the San Miguel RTA, which began collecting sales taxes in January 2017, actual tax revenue remitted between February and June 2017 is used to estimate an entire fiscal year.

Estimates reflect the assumed volume of retail marijuana sales, the district sales tax rate, and the presence and size of a district vendor fee. To the extent that district marijuana sales grow faster or slower than the state's, or to the extent that statewide marijuana sales grow faster or slower than forecast, the actual fiscal impact will be different than that presented in Table 4.

**Effective Date**

The bill was postponed indefinitely by the House Finance Committee on February 7, 2018.

**State Appropriations**

For FY 2017-18, the bill requires a General Fund appropriation of \$3,250 to the Department of Revenue.

**State and Local Government Contacts**

Counties  
Revenue

Municipalities  
Special Districts

Regional Transportation District