



DENVER
THE MILE HIGH CITY

Ballot Measure to Retain DPP Sales Tax Increase

Finance & Services Committee

August 9, 2016

FOR CITY SERVICES VISIT | CALL
DenverGov.org | **311**

- November, 2014 – Denver voters approved a sales tax increase to the dedicated tax for the Denver Preschool Program (from 0.12 to 0.15)
- As with the special marijuana tax collections in 2014, we have a TABOR problem in regard to first-year collections of these taxes
 - Both Denver and the State had this issue with MJ taxes and went to the voters to seek authority for retaining taxes
 - Primarily caused by the unprecedented spike in the overall economy again last year
- We need to go to voters in November to reaffirm the authority to keep the first-year collection of dedicated DPP sales tax increase

There are two distinct refund triggers in TABOR:

- When the total amount of the city’s fiscal year spending in the first year of collection of the new tax exceeds the total fiscal year spending estimated in the TABOR notice that was mailed to all voters prior the election.
- When the specific revenue derived from the new voter-approved tax exceeds the first-year dollar amount estimated in the ballot question.

However, TABOR allows us to avoid a refund by seeking “later voter approval” to keep collections

- Extraordinary economic growth has again caused actual first-year “fiscal year spending” (as defined by TABOR) to exceed the estimates contained in the TABOR notice
- By exceeding the overall fiscal year spending estimate in TABOR notices, we must potentially refund every dollar of first year DPP tax increase collections
 - Total city collection for the increment for FY 2015 (actual): \$3,525,759

- TABOR also potentially poses another problem when first-year collections of new taxes exceed the estimates given to the voters:
 - “the tax increase is thereafter reduced up to 100% in proportion to the combined dollar excess”
- The state has interpreted this language to mean that the tax can be “reduced” one day, and then fully restored the next

- Bill request would refer a question to the November 2016 ballot asking to retain the taxes already collected
- Proposed Denver ballot measure:

MAY THE CITY AND COUNTY OF DENVER RETAIN AND SPEND ALL 2015 REVENUES DERIVED FROM THE THREE ONE-HUNDREDTHS OF ONE PERCENT (.03%) SALES AND USE TAX RATE INCREASE IN SUPPORT OF THE DENVER PRESCHOOL PROGRAM AS ORIGINALLY APPROVED BY THE VOTERS ON NOVEMBER 4, 2014, AND CONTINUE TO IMPOSE AND COLLECT THE TAX TO THE FULL EXTENT PERMITTED BY THE ORIGINAL VOTER APPROVAL THROUGH DECEMBER 31, 2026?

- What happens if voters approve the ballot measure?
 - Status quo
 - No need for further voter approval of the DPP tax increase approved in 2014

- What happens if voters do not approve the ballot measure?
 - We must refund the full \$3,525,759, equal to the DPP sales tax increase revenue collected in 2015
 - TABOR requires refunds be given no later than December 31, 2016
 - The city would also have to contend with the provision of TABOR indicating that the tax must be “thereafter reduced” if the voters do not approve retention of first-year excess collections.

What is doable & what is not doable

- TABOR says governments “may use any reasonable method for refunds . . . including temporary tax credits or rate reductions”
- TABOR says, “Refunds need not be proportional when prior payments are impractical to identify or return.”

- There are some practical refund options prior to December 31, 2016 if the voters say NO to the ballot measure
- Some options are not practical due to time constraints
- Decision does not have to be made when referring the ballot question
 - Intend to continue discussion on best option for the city

- Finance Committee: August 9th
- Mayor-Council: August 16th
- 1st Reading: August 22nd
- Final Reading: August 29th

(this is the final regularly scheduled meeting for ballot referral for November)

Questions?