



DENVER
THE MILE HIGH CITY

Ballot Measure to Retain Retail MJ Taxes

BR15-0314

Finance & Services Committee

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

Taxpayer's Bill of Rights



- November, 2013 - voters approved new city and state taxes on retail marijuana
- Now, both the state and the city have a TABOR problem in regard to first-year collections of these taxes,
 - Primarily caused by the unprecedented spike in the overall state economy last year
- Both the state and the city plan to return to the voters at the November, 2015 election to reaffirm their authority to keep their first-year collection of marijuana tax revenue

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 in 2014, caused actual first-year “fiscal year spending” (as defined by TABOR) at both the state and the city level to substantially exceed the estimates contained in the TABOR notices
- By exceeding the overall fiscal year spending estimate in their TABOR notices, both the state and the city must potentially refund every dollar of first year marijuana tax collections
 - Total state collections for FY14-15 (estimated): \$58 million
 - Total city collections for FY 2014 (actual): \$5.29 million

- The city's actual first-year collection of marijuana taxes also exceeded the dollar estimate in the city's 2013 ballot question
 - Estimated in the ballot question: \$4,480,000
 - Actual first-year collections: \$5,290,016
 - Difference: \$810,000



DENVER Retail Marijuana Special Sales Tax - 2014

2014	Retail MJ Sales	Retail Special Sales Tax Rate 3.5%	Retail Standard Sales Tax Rate 3.62%	Retail Sales Tax Total
January	\$8,490,575.84	\$297,168.32	\$307,360.68	\$604,529.00
February	\$8,452,963.48	\$295,851.90	\$305,999.10	\$601,851.00
March	\$10,666,123.60	\$373,312.02	\$386,115.98	\$759,428.00
April	\$12,072,668.54	\$422,540.79	\$437,033.21	\$859,574.00
May	\$11,251,151.69	\$393,787.88	\$407,294.12	\$801,082.00
June	\$12,376,924.16	\$433,189.67	\$448,047.33	\$881,237.00
July	\$14,420,379.21	\$504,710.16	\$522,020.84	\$1,026,731.00
August	\$16,097,485.96	\$563,408.53	\$582,732.47	\$1,146,141.00
September	\$14,226,853.93	\$497,936.81	\$515,015.19	\$1,012,952.00
October	\$14,796,839.89	\$517,886.20	\$535,648.80	\$1,053,535.00
November	\$13,585,912.92	\$475,504.02	\$491,812.98	\$967,317.00
December	\$14,706,390.45	\$514,720.49	\$532,374.51	\$1,047,095.00
Total	\$151,144,269.66	\$5,290,016.79	\$5,471,455.21	\$10,761,472.00

- 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”
- Again, however, TABOR allows this reduction to be overcome by “later voter approval”

- Bill request would refer a question to the November 2015 ballot asking to retain the taxes already collected
- Proposed Denver ballot measure:

MAY THE CITY AND COUNTY OF DENVER RETAIN AND SPEND ALL 2014 REVENUES DERIVED FROM THE SPECIAL RETAIL MARIJUANA SALES TAX ORIGINALLY APPROVED BY THE VOTERS ON NOVEMBER 5, 2013, AND CONTINUE TO IMPOSE AND COLLECT THE TAX TO THE FULL EXTENT PERMITTED BY THE ORIGINAL VOTER APPROVAL?

- What happens if voters approve the ballot measure?
 - Status quo
 - No need for further voter approval of the special retail marijuana tax approved in 2013

- What happens if voters do not approve the ballot measure?
 - We must refund the full \$5.29 million, equal to the special retail marijuana tax revenue collected in 2014
 - TABOR requires refunds be given no later than December 31, 2015
 - 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, 2015 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 & Services – May 13

Mayor-Council – May 19

1st Reading – June 1

2nd Reading – June 8