Addendum #1
Items Received Since Packet Published
SUBJECT: POTENTIAL 2020 BALLOT MEASURES – ADDENDUM

DATE: JUNE 16, 2020

PRESENTED BY: MEGAN DAVIS, DEPUTY CITY MANAGER

SUMMARY:
This communication provides an addendum to the Council Communication for June 16, 2020 related to potential ballot measures. Specifically, this memo provides updated information for City Council regarding the proposed tobacco/vaping tax.

On June 11, 2020 members of the General Assembly introduced a bill to refer a tobacco and vaping tax to Colorado voters in November, 2020. The General Assembly was scheduled to adjourn sine die on Saturday, June 13, but extended to Monday, June 15. Although a similar bill was introduced last year, it was not anticipated that this issue would re-emerge during the 2020 session, which was disrupted and rescheduled due to COVID-19.

HB20-1427 Cigarette, Tobacco and Nicotine Products Tax increases the tax on cigarettes, other tobacco products and nicotine products, including vape products. Under the bill:

- Cigarette tax would increase from 1 cent per cigarette to 6.5 cents until July 2024, and then increasing to 8 cents until July 2027 and to 10 cents thereafter;
- Other tobacco products, such as chewing tobacco and cigars would increase from 20% of the manufacturer’s list price to 30% until July 2024, then 36% until July 2027 and then to 42% thereafter;
- A new tax is created on nicotine products such as vaping products, which would equal 50% of the manufacturer’s list price until July 2024, 56% until July 2027 and 62% thereafter.

The bill passed the state legislature on Monday, June 15. The Governor is expected to sign the bill, as it is a part of a larger agreement around changes to the tax structure and affordable housing.

Revenue from the taxes is distributed to fund health care, tobacco education, preschool, and other programs. This resolution refers a ballot measure to voters at the November 2020 statewide election to increase cigarette and tobacco taxes and create a new tax on nicotine products. The new tax rates begin on January 1, 2021 and are phased in through 2027.
A few local government specific provisions to note in the bill:
- The bill does not prevent a local municipality, county or city and county from imposing any special sales tax on cigarettes, tobacco products or nicotine products, or the use of such local special sales taxes locally.
- The existing language regarding the share-back remains. In order to qualify for the distribution of the state cigarette tax share-back, local governments are prohibited from imposing taxes on the sale of cigarettes. The local government share-back only applies to cigarettes, and would not apply to the increases in the other tobacco products or the new vaping tax.
- Of the additional sales tax revenue generated by the minimum price for cigarettes, 27% is distributed to local governments, so additional revenue to the fund will result in higher distributions to local governments.

At this time, City Council has some options to consider in terms of how it moves forward around this potential ballot measure:
- Continue to move forward with ballot measure language for a local tax.
  o Council could consider the ballot language on July 14 and advance to the voters for consideration. If passed, the City would have a local tax in addition to new/increased state taxes.
  o Council could consider the ballot language on July 14 and decide to pull it at that time.
- Wait until the voters take up a statewide measure and if it does not pass move forward with a local measure in a future year.
- City staff have a question in to our bond counsel attorney to understand if we could move forward with a ballot measure for voter consideration for a local tax that would only go into effect in the event that the state measure does not pass. We expect to have more information regarding this option at the City Council meeting.

FISCAL IMPACT:
The passage of HB20-1427 has no direct fiscal impact on the City.

PROGRAM/SUB-PROGRAM IMPACT:
The Governance and Administration subprogram of governance based on thorough understanding of the community’s diverse interests executed through clear and effective policy direction.

RECOMMENDATION:
Staff recommends City Council discuss this potential local ballot measure in light of the newly passed referred measure for a state tax.
ATTACHMENT(S):
1. Link to HB20-1427 Amended bill draft
2. Link to Fiscal note for HB20-1427

STRATEGIC PLAN IMPACT:

| ☐ | Financial Stewardship & Asset Management | ☐ | Reliable Core Services |
| ☒ | Vibrant Economic Climate | ☐ | Quality Programs & Amenities |
| ☒ | Engaged Community | ☒ | Healthy Workforce |
| ☐ | Supportive Technology | ☐ | Collaborative Regional Partner |
Mayor Stolzmann. City Council and Staff,

Since your discussion and direction to staff regarding the proposed 2019 Tobacco, Nicotine, Vaping Tax Ballot Issue, three related statewide measures have been advanced. The majority of Louisville Council members appeared to have favored regional or statewide solutions to the problem of underage smoking and vaping, and one or more of these measures will almost certainly provide that resolution. I encourage you to defer further action on a Louisville ballot measure which would increase taxes above and beyond the following amounts.

Any of these measures will significantly curtail the viability of cigar lounges in Colorado. In addition, Havana Manor in Louisville has not been able to reopen its lounge under current guidance, putting its future at significant risk. If you do choose to proceed with the Louisville ballot measure, please include exemptions for premium cigars and pipe tobacco in order to give them a fighting chance.

https://leg.colorado.gov/bills/hb20-1427
House Bill 20-1427 put a measure on the November 2019 ballot to increase taxes on all nicotine products:

Beginning January 1, 2021: To increase the statutory per cigarette tax from one cent to 6.5 cents until July 1, 2024, then to 8 cents until July 1, 2027, and thereafter to 10 cents; The bill also establishes a minimum price for cigarettes that is equal to: $7 for a pack and $70 for a carton until July 1, 2024; and $7.50 for a pack and $75 for a carton on and after July 1, 2024.

To increase the statutory tobacco products tax from 20% of the manufacturer's list price (MLP) to 30% of MLP until July 1, 2024, then to 36% of MLP until July 1, 2027, and to 42% thereafter of MLP for tobacco products; To create a tax on nicotine products that is equal to 50% of MLP until July 1, 2024, then 56% of MLP until July 1, 2027, and thereafter 62% of MLP.

- Please note that for Premium Cigars (but not vaping products), these taxes are in addition to the 20% statewide excise tax.

https://leg.colorado.gov/bills/hb20-1319
On and after September 1, 2020, the bill prohibits the sale of flavored cigarettes, tobacco products, and nicotine products, including flavored electronic cigarettes, and products intended to be added to cigarettes, tobacco products, or nicotine products to produce a flavor other than tobacco.

While this bill has been laid over until December 31 because of the shortened legislative session, it appears to have wide backing.

Proposed Initiative #292 was approved for circulation as follows:
Shall State Taxes Be Increased By $334,400,000 Annually By A Change To The Colorado Revised Statutes Increasing Taxes On Products That Contain Nicotine, And, In Connection Therewith: (1) Increasing The
Cigarette Tax By Ten Cents Per Cigarette, Adjusted For Inflation, And Increasing The Tobacco Products Tax By 22% Of The Manufacturer's List Price; (2) Creating A Tax On Nicotine And Vaping Products That Is Equal To The Total State Tax On Tobacco Products; (3) Using The New Revenue For Preschool Access For Children In The Year Before Kindergarten, And To Expand Tobacco Education, Prevention, And Cessation Programs; (4) Requiring Licensing Of Nicotine And Vaping Products Distributors; (5) Requiring State Audits Of The New Revenue Used For Preschool Programs; And (6) Authorizing The State To Keep And Spend All The New Revenue As A Voter-Approved Revenue Change?

Thank you for your attention. Regards,

Mike Kranzdorf
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If people want to have renewable energy thats great. Please stop trying to make us Boulder, the fine people of Louisville that built this fine town worked hard to make it inclusive to all opinions, requiring renewable energy be paid by all is just wrong! Think of all the people here that do not work for google, and many living on fixed incomes.

The City Council is not the place for personal agendas, as you all seem to think it is. Your surveys are very carefully positioned to make them seem like everyone wants to be like Boulder. How about lets get our great restaurants up and running, and open the street seating. Lets help the citizens not burden our citizens with extra costs!

Nancy Martin
Hello Council Members,

I would like to express my support for reducing the Louisville Police Department budget and reallocating that budget to education (especially equity-focused initiatives), mental health resources and support, and community-led public safety initiatives.

I am unable to attend tomorrow's virtual meeting so wanted to express my viewpoint via email.

Thank you for your consideration.

Elizabeth Mao
Louisville Resident