

# **Amendment 64 Implementation Task Force Tax/Funding and Civil Law Working Group**

Ralph L. Carr Colorado Judicial Center  
1300 Broadway, 1<sup>st</sup> Floor  
Denver, Colorado 80203

## Meeting Minutes

Wednesday, February 20, 2013  
11:00 a.m. – 1:00 p.m.

### **TOPIC: Tax and Funding Issues**

#### **I. Call To Order:**

- a. Co-Chair David Blake called the meeting to order at 11:04 a.m.

#### **II. Introductions:**

- a. Attendance:
  - i. Sub-Committee Members Present: Co-Chair David Blake, Co-Chair Cheri Jahn, Bill Callison, Michael Elliott, Holli Hartman, John Vecchiarelli, Dan Krug, Adrienne Russman, Kimberlie Ryan, Tamra Ward, Mike Cerbo, Alexis Senger, Dorinda Floyd, Kristal Bernert, Mary Jo McGuire
- b. Vote to adopt minutes from February 13th, passed unanimously.

#### **III. Presentation by Jack Finlaw, Governor's General Counsel & Co-Chair of Task Force**

- a. Mr. Finlaw asked the committee to consider other potential sources of revenue not contained in Amendment 64 since the tax provisions will have to go back to voters under TABOR
- b. Concerned that vertical model would not provide fair market value for product
- c. Suggested the committee do a comparison to Washington state's model of a three-tiered excise tax
- d. Gov. Hickenlooper would like an excise tax and/or sales tax that ensures:
  - i. The value of the tax cannot be manipulated by businesses
  - ii. There will be enough revenue to pay for the regulatory scheme
  - iii. There will be enough money to educate youth on dangers of marijuana and provide for rehabilitation / counseling programs
  - iv. The overflow of revenue would go to education

#### **IV. Discussion regarding Jack Finlaw's Presentation**

- a. Mr. Elliott pointed out the 70/30 model to address concern with vertical integration
- b. Mr. Elliott cautioned the comparison with the Washington state model since it has not proved to be a successful working model yet, and also voiced concern with the possibility that taxing businesses at a high level would drive consumers to black market alternatives
- c. Mr. Blake asked for an estimate on medical marijuana gross sales and state sales tax numbers
- d. Mr. Elliott stated he does not support an increase in sales tax, but does have an open mind about the possibility, especially for programs such as school construction. He cautioned the committee that medical marijuana industry is the "most taxed" industry. Mr. Vecchiarelli objected, responding that there are a couple of other industries, especially lodging, that experience high taxation.
- e. Ms. Floyd suggested language in excise tax that could compare it to black market rates, Mr. Finlaw proposed instead that the General Assembly start with a higher excise tax and ratchet down as necessary

- V. Review of February 19 Task Force Meeting**
- a. Property, Contracts, 280(e) all adopted w/o amendments
  - b. RF-6 adopting “Vertical Integration” industry model was adopted
  - c. Mr. Vecchiarelli expressed strong dismay as to the main Task Force’s adoption of RF-6 and the vertical integration model, stating that he believes this model will work itself out of existence within 5 years.
    - i.
  - d. Adopted a number of changes to Title 18 to comport with Amendment 64
  - e. Proposals regarding residency requirements for licensure were adopted
  - f. Excise Tax Recommendations will be revisited
- VI. Discussion on Fees**
- a. Mr. Blake asked whether the additional fees listed below should be adopted in addition the application and licensing fees.
  - b. Consensus that in general, the fees listed were reasonable regulatory vehicles and should be adopted, no numbers discussed or adopted.
  - c. Fees include:
    - i. Application Fees (Section 5)
    - ii. Licensing Fees
    - iii. Processing Fees
    - iv. Inspection Fees
    - v. Renewal Fees
    - vi. Civil Penalties for Non-Compliance
    - vii. Other?
  - d. Mr. Blake will draft language stating that the General Assembly should establish fees and that the current rulemaking procedures allow for adjustment of such fees
- VII. Revisit Banking Recommendations/Discussion of Virtual Banking (i.e. Bitcoin)**
- a. Though no formal draft recommendation was considered, straw poll consensus was that the proposed alternative banking, Bitcoin, would not be a suitable solution to the banking problem and could invite previously discussed wire transfer and even more problems with federal government
- VIII. Sales Tax Discussion**
- a. Mr. Blake proposed estimating a doubling of the industry in the first year as a starting number and asked for a consensus, debate ensued over the proper starting point
  - b. Mr. Blake asked to establish a starting number of \$50 million as a conservative goal the state needs to meet education, MED, etc.
  - c. Ms. Floyd provided the 2012 total tax revenue from the medical marijuana industry in 2012 was \$5.4 million, committee agreed to start with this number
  - d. Ms. Bernert voiced concern about considering each tax / fee individually, and suggested that a holistic approach needs to be taken
  - e. Ms. Ward suggested getting Legislative Counsel or Revenue to perform further analysis
  - f. Different committee members calculated different schemes and would email them to Mr. Blake
- IX. Proposals for Discussion at next meeting on February 27**
- a. Mr. Elliott had two recommendations to discuss next Wednesday:
    - i. Suggesting a possible resolution to the banking issue, and possibly drafting a recommendation
    - ii. Further discussion of the excise tax issue, and proposed that revenue going to schools from the tax go to the communities where tax is being taken from
- X. Public Comment**
- a. Concern about terminology referring to “recreational use,” proposes instead to call it “adult use”

- b. Concern that committee does not recognize that illegal distribution of marijuana comes from illegal producers, and not generally legally operating dispensaries
- c. Concern that 15% excise tax was excessive and that the legislature does not generally reduce excise taxes.
  - i. Response that for example the excise tax on beer has not increased, and thus with inflation is decreasing
- d. Comment positing that customers of marijuana would be glad to pay sales tax to fund education
- e. Reminder that each locality has sales tax also and to consider that some shoppers will determine shopping habits based on state sales and local sales taxes cumulatively