

RESOLUTION NO. 13- 186

**THE BOARD OF COUNTY COMMISSIONERS
OF PUEBLO COUNTY, COLORADO**

**RESOLUTION TO APPROVE AND AUTHORIZE A BALLOT ISSUE FOR THE NOVEMBER
2013 GENERAL ELECTION FOR THE PURPOSE OF PROPOSING AN ADDITIONAL
COUNTYWIDE SALES TAX ON RETAIL MARIJUANA AND RETAIL MARIJUANA
PRODUCTS WITH THE TAX REVENUES TO BE USED TO FUND THE ADEQUATE
ENFORCEMENT AND ADMINISTRATION OF REGULATIONS ON THE RETAIL
MARIJUANA INDUSTRY AND OTHER GENERAL PURPOSES OF THE COUNTY**

WHEREAS, C.R.S. § 29-2-101, *et seq.*, authorizes the County to levy countywide sales taxes upon the approval of a majority of the qualified registered electors of the County voting on such proposal at an election conducted and held according to Colorado law; and

WHEREAS, the laws of Colorado permit the sale of retail marijuana and retail marijuana products under Article XVIII of the Colorado State Constitution and the Colorado Retail Marijuana Code (C.R.S. § 12-43.4-101 *et seq.*); and

WHEREAS, C.R.S. § 39-28.8-203 authorizes local governments to impose, levy and collect taxes on the sale of retail marijuana and retail marijuana products; and

WHEREAS, should this Board authorize the sale of retail marijuana and retail marijuana products in Pueblo County, Colorado approving appropriate County regulations to administer and enforce the retail marijuana industry in the County will be necessary; and

WHEREAS, this Board believes that appropriate use of local taxing authority over this industry is essential to pay for the appropriate enforcement and administration of regulations essential for the retail marijuana industry to operate successfully and in harmony with the Pueblo community; and

WHEREAS, this Board finds that it is in the best interest of the present and future residents of the County to certify a ballot issue to the eligible voters of the County at the November 2013 General Election requesting approval of the imposition of an additional countywide sales tax of three and one-half percent (3.5%) on the sale of retail marijuana and retail marijuana products subject to the terms of this Resolution.

NOW, THEREFORE, BE IT RESOLVED by the Board of County Commissioners of Pueblo County, Colorado:

GENERAL PROVISIONS

1. Purpose of this Resolution: The purpose of this Resolution is, upon the approval of a majority of the eligible electors voting on such Proposal at the November, 2013 General Election, to enact, and, therefore, levy and impose an additional countywide sales tax of three and one-half percent (3.5%) upon the sale of “retail marijuana” and “retail marijuana products” as those products are defined in C.R.S. § 12-43.4-103, in accordance with the provision of Article 2 of Title 29, C.R.S., which provisions are incorporated herein by this reference.

2. Effective Date of Sales and Use Tax Rate Increase: If approved by a majority of the eligible electors voting thereon at the November 2013 General Election, the sales tax proposed in this Resolution and in the ballot issue shall become effective January 1, 2014.

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3. Statutory Definitions Incorporated/Specific Definition of Countywide: The definitions of the words contained herein shall be as set forth in C.R.S. §§39-26-102, 39-26-201, 39-26-701, and 12-43.4-103 which definitions are incorporated by reference into this Resolution as if fully set forth herein. The term, “countywide”, as used in this Resolution includes all incorporated areas (*i.e.*, municipalities, including, but not limited to, all statutory cities and towns and all home rule cities and towns) and unincorporated areas within Pueblo County.

SPECIFIC PROVISIONS PERTAINING TO THE SALES TAX

4. Property Taxed: Upon approval in the November 2013 General Election, there shall be enacted and, therefore, levied and imposed and there shall be collected and paid, a countywide sales tax of three and one-half percent (3.5%) on the gross receipts upon the sale of “retail marijuana” and “retail marijuana products” as those products are defined by C.R.S. §12-43.4-103.

5. Adoption of State Rules and Regulations: The imposition of this tax on the sale of retail marijuana and retail marijuana products shall be in accordance with the rules and regulations of the Colorado Department of Revenue, and/or in accordance with any regulations of Pueblo County which may be enacted by separate written resolution.

6. Amounts Excluded: The amounts subject to tax shall not include the amount of any sales or use tax imposed by Article 26 of Title 39, C.R.S.

7. Exemptions: There shall be exempt from sales taxation under the provisions of this Resolution all of the tangible personal property and services which are exempt from County sales taxation under the State Statute, “Sales and Use Tax Exemptions”, C.R.S. §39-26-701, *et seq.*, and the Pueblo County Code.

8. Nonresident Exemption: All sales of tangible personal property on which a specific ownership tax has been paid or is payable shall be exempt from the subject sales tax increase when such sales meet both of the following conditions:

a. The purchaser is a nonresident of or has his or her principal place of business outside the County; and

b. Such tangible personal property is registered or required to be registered outside the limits of the County under the laws of Colorado.

9. Acknowledgement of statutory exemptions: As the additional sales tax proposed by this Resolution applies only to retail marijuana and retail marijuana products and applies to no other tangible personal property, the exemptions for types of tangible personal property other than retail marijuana and retail marijuana products described in C.R.S. §29-2-105 are not applicable to this additional sales tax proposal. It is specifically acknowledged that none of the tangible personal property covered by exemptions cited in C.R.S. §29-2-105 shall be taxed by the additional sales tax proposed in this Resolution.

10. Place of Sale: For purposes of this Resolution, all sales of retail marijuana and all sales of retail marijuana products shall be considered consummated at the place of business of the retailer, unless the retail marijuana or retail marijuana product sold is delivered by the retailer or his agent to a destination outside the limits of the County or to a common carrier for delivery to a destination outside the limits of the County. The gross receipts from such sales shall include delivery charges, when such charges are subject to the sales and use tax of the State of Colorado imposed by Article 26 of Title 39, C.R.S., regardless of the place to which delivery is made. If a retailer has no permanent place of business

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in the County, or has more than one place of business, the place or places at which the retail sales are consummated for the purpose of the sales tax imposed by this Resolution shall be determined by the provisions of Article 26, of Title 39, C.R.S., and by the rules and regulations promulgated by the Colorado Department of Revenue.

11. Sales Tax License: No separate County sales tax license shall be required. Any person engaging in the business of selling retail marijuana or retail marijuana products at retail shall annually obtain and hold a State license as required by C.R.S. §39-26-103.

12. Sales Tax Vendor's Fees: As collection agent for Pueblo County, the vendor shall be entitled to withhold an amount equal to three and one-third percent (3 1/3%) of the total amount to be remitted by vendor to the Pueblo County Treasurer each month to cover vendor's expense in the collection and remittance of said County sales tax on sales of retail marijuana and retail marijuana products. If any vendor is delinquent in remitting said tax, other than in unusual circumstances shown to the satisfaction of the Pueblo County Treasurer, the vendor shall not be allowed to retain any amounts to cover his or her expenses in collecting and remitting said tax, and an amount equivalent to the full three and one-half percent (3.5%) shall be remitted to the Pueblo County Treasurer by any such delinquent vendor. If any vendor, during any reporting period, shall collect as a tax an amount in excess of three and one-half percent (3.5%) of the total taxable sales, he or she shall remit to the Pueblo County Treasurer the full amount of the tax herein imposed and any such excess so collected.

13. Collection, Administration and Enforcement: The collection, administration and enforcement of the sales tax on sales of retail marijuana and retail marijuana products imposed by this Resolution shall be performed by the employees of Pueblo County pursuant to regulations regarding collection, administration and enforcement of this additional sales tax on retail marijuana and retail marijuana products to be passed by the Pueblo County Board of County Commissioners prior to January 1, 2014.

If the sales and use tax increase proposed by this Resolution is approved by the electorate at the General Election in November, 2013, the County Clerk and Recorder, shall send notice of said adoption to the Executive Director of the Department of Revenue. Such notice shall include:

- a. A copy of this Resolution, certified by the Clerk and Recorder;
- b. Affidavits of Publication of this Resolution, as provided herein; and
- c. An abstract of election results, certified as to the approval of the sales tax by a majority of the registered, qualified electors of Pueblo County voting thereon.

USE OF TAX REVENUES

14. Distribution of Tax Revenues: In order to carry out the purposes expressed in this resolution and in the proposed ballot issue, and pursuant to C.R.S. §29-2-104(2), Pueblo County shall retain all revenue generated by the additional sales tax imposed by this Resolution for the purposes described in paragraph 15 below and there shall be no distribution of revenues generated by this additional sales tax to any incorporated town or city within Pueblo County.

15. Use by County: The Board shall direct the utilization of the revenues of the additional sales tax on retail marijuana and retail marijuana products proposed by this Resolution solely as described in the ballot measure referred to the voters of Pueblo County by this Resolution:

- a. Effective January 1, 2014, Pueblo County shall expend revenue generated from this additional sales tax on retail marijuana and retail marijuana products for the purposes listed on Attached Exhibit A (Ballot Issue 2A) and for no other purposes.

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b. Revenue generated from this additional sales tax on retail marijuana and retail marijuana products shall be used to fund the adequate enforcement and administration of regulations on the retail marijuana industry and other general purposes of the County.

ELECTION REQUIREMENTS

16. Submission to Electors: Pursuant to C.R.S. §29-2-104(3), this sales and use tax increase proposal as set forth in this Resolution shall be referred to the eligible electors of Pueblo County at the General Election to be held Tuesday, November 5, 2013, and being referred to herein as the November 2013 General Election. The ballot issue to be submitted to the eligible electors shall be substantially as set forth on attached Exhibit A, which Exhibit A is incorporated by reference into this Resolution as if fully set forth herein.

17. Publication of Resolution: The County Clerk and Recorder is hereby authorized and directed to publish the text of this proposal for a sales and use tax increase four separate times, a week apart, in the The Pueblo Chieftain, a newspaper circulated in Pueblo County and in each city and incorporated town within the County.

18. Conduct of the Election: The election shall be held and conducted and the results thereof shall be determined, so far as practicable, in conformity with the provisions of the Colorado Uniform Election Code of 1992 as set forth in Articles 1 through 13, inclusive, of Title 1, C.R.S.

19. Ballot Title: For purposes of C.R.S. §1-11-203.5, the ballot title for the ballot issue contained in Exhibit A attached to this Resolution is hereby determined to be the text of the ballot issue itself set forth on attached Exhibit A.

20. Authority to Effect Resolution: The officers, employees and agents of the County are hereby authorized and directed to take all action necessary or appropriate to effectuate the provisions of this Resolution in accordance with Colorado law.

MISCELLANEOUS

21. Effective Date- Applicability: Upon approval at the November 2013 General Election, this Proposal shall become effective and in force immediately, subject to the terms and conditions as set forth in this Resolution, and shall remain effective unless otherwise repealed according to Colorado law; provided, however, that the provisions of this Resolution calling for an election on the ballot issue set forth in Exhibit A shall take effect immediately upon the passage of the Resolution by the Board.

22. Statutory References: All statutory citations in this Resolution shall be construed to refer to the Colorado Revised Statutes, 2013 referred to above as C.R.S., and as the same may be from time to time amended.

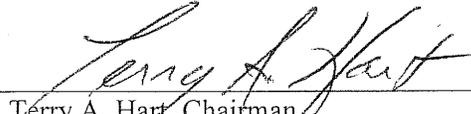
23. Amendments: Unless otherwise required by Colorado law, the provisions of this Resolution may be amended by resolution of the Board of County Commissioners.

24. Severability: If any section, paragraph, clause, or provision of this Resolution shall be adjudged to be invalid or unenforceable, the invalidity or unenforceability of such section, paragraph, clause or provision shall not affect any of the remaining sections, paragraphs, clauses, or provisions of this Resolution. It is the intention of the Board that the various parts of this Resolution are severable.

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PASSED AND ADOPTED this 6th day of September, 2013, in Pueblo County, Colorado.

THE BOARD OF COUNTY COMMISSIONERS
OF PUEBLO COUNTY, COLORADO

By: 
Terry A. Hart, Chairman

ATTEST:

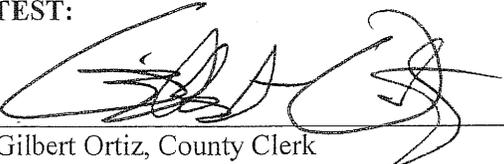
By: 
Gilbert Ortiz, County Clerk

EXHIBIT A

2A – Pueblo County Issue

SHALL PUEBLO COUNTY TAXES BE INCREASED BY \$400,000 ANNUALLY IN THE FIRST FISCAL YEAR AND BY SUCH AMOUNTS AS ARE RAISED ANNUALLY THEREAFTER BY IMPOSING AN ADDITIONAL SALES TAX OF THREE AND A HALF PERCENT (3.5%) ON THE SALE OF RETAIL MARIJUANA AND RETAIL MARIJUANA PRODUCTS, WITH THE TAX REVENUES BEING USED TO FUND THE ADEQUATE ENFORCEMENT AND ADMINISTRATION OF REGULATIONS ON THE RETAIL MARIJUANA INDUSTRY AND OTHER GENERAL PURPOSES OF THE COUNTY, AND SHALL PUEBLO COUNTY BE ENTITLED TO COLLECT, RETAIN, AND SPEND THE FULL REVENUES FROM SUCH TAX INCREASE AS A VOTER-APPROVED REVENUE CHANGE NOTWITHSTANDING ANY REVENUE OR EXPENDITURE LIMITATION CONTAINED IN ARTICLE X, SECTION 20 OF THE STATE CONSTITUTION, C.R.S. SECTION 29-1-301, OR ANY OTHER LAW?