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## Commerce & Gaming Committee

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### HB 1099

**Brief Description:** Addressing local governments' unofficial moratoria on state-licensed marijuana retail outlets.

**Sponsors:** Representatives Sawyer, Condotta and Kirby.

#### Brief Summary of Bill

- Establishes that effective January 1, 2018, a municipality that refuses to allow the siting or operation of retail marijuana businesses absent the formal adoption of an ordinance or resolution explicitly prohibiting the operation of such businesses within its jurisdictional boundaries forfeits the following: (1) 70 percent of the municipality's share of the monies in the liquor revolving fund and; (2) all of its share of state marijuana excise tax revenues to which it might otherwise be entitled.

**Hearing Date:** 1/17/17

**Staff:** Thamas Osborn (786-7129).

#### Background:

##### Resistance by Local Governments to the Siting and Operation of State Licensed Marijuana Businesses.

Many cities and counties throughout the state have enacted ordinances that explicitly prohibit the siting of licensed marijuana producers, processors, and retailers within their jurisdictional boundaries. Some cities and counties have enacted special zoning ordinances limiting the location of recreational marijuana businesses to certain areas or have special licensing requirements for such businesses. Other municipalities have simply refused to issue the permits or business licenses necessary for the siting or operation of a marijuana business, but without the enactment of any ordinance or resolution explicitly prohibiting the operation of such businesses within their jurisdictional boundaries.

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*This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.*

These actions by Washington cities and counties have given rise to litigation regarding whether or not local governments are preempted from enacting local ordinances that have the effect of preventing or interfering with the siting of state licensed marijuana businesses authorized under Initiative 502. Washington courts have ruled that state law does not preempt such actions by local governments. Also, in 2014, the Washington State Attorney General published a formal opinion stating that Initiative 502 does not preempt local governments from implementing ordinances that impose bans or moratoria regarding the siting of marijuana producers, processors, and retailers.

Distribution of State Marijuana Excise Tax Revenues to Local Governments Beginning in 2018. Beginning in fiscal year 2018, a portion of marijuana excise tax revenues deposited into the State General Fund will be shared with counties and cities. However, the funds derived from marijuana tax revenues may only be distributed to jurisdictions that do not prohibit the siting of state licensed marijuana producers, processors, and retailers.

Starting no earlier than fiscal year 2018, distributions to local jurisdictions will not occur until \$25 million of marijuana tax revenues have been deposited into the State General Fund, at which point 30 percent of the previous fiscal year's General Fund revenues will be distributed to eligible counties and cities in four installments. Thirty percent of the local distribution is disbursed to counties, cities and towns allocated as a portion of state marijuana revenue based on the amount of marijuana excise tax revenues attributable to any licensed retail store within the county, city or town. The remaining 70 percent is disbursed based on population, with counties receiving 60 percent of this allocation and cities and towns sharing the remaining 40 percent. Jurisdictions that prohibit the siting of state licensed marijuana producers, processors, and retailers are not eligible for a share of state marijuana tax revenue.

Distribution of Liquor Revolving Fund Revenues to Local Governments.

The State Treasurer maintains and administers a "liquor revolving fund" that consists of all license fees, permit fees, penalties, and all other monies, income, or revenue received by the Liquor & Cannabis Board (LCB). Monies in the fund derived from commercial and regulatory activities involving liquor are subject to quarterly distribution by the LCB in accordance with specified requirements. A portion of the monies in the fund are distributed to cities, towns, and counties in accordance with statutory requirements.

**Summary of Bill:**

Effective January 1, 2018, a municipality that refuses to allow the siting or operation of retail marijuana businesses absent the formal adoption of an ordinance or resolution explicitly prohibiting the operation of such businesses within its jurisdictional boundaries forfeits the following: (1) 70 percent of the municipality's share of the monies in the liquor revolving fund and; (2) all of its share of state marijuana excise tax revenues to which it might otherwise be entitled.

A municipality that would otherwise be subject to such forfeiture can avoid the sanction through either one of two means, as follows:

- the formal adoption of an ordinance or resolution expressly prohibiting the siting and operation of state licensed marijuana businesses within its jurisdictional boundaries; or

- affirmatively authorizing the siting and operation of a state licensed marijuana businesses through the issuance of the local permits, licenses, or other authorization necessary for such businesses to become operational.

**Appropriation:** None.

**Fiscal Note:** Available.

**Effective Date:** The bill takes effect 90 days after adjournment of the session in which the bill is passed.