

RESOLUTION NO. 2013-031

**A RESOLUTION OF THE
BOARD OF COUNTY COMMISSIONERS OF OURAY COUNTY, COLORADO
TO AUTHORIZE THE ADOPTION OF AN INCREASE IN COUNTYWIDE SALES TAX
IN THE AMOUNT OF .75% FOR A PERIOD OF TEN YEARS FOR PURPOSES OF PROVIDING
REVENUES FOR PUBLIC HEALTH AND SAFETY NEEDS**

WHEREAS, assessed valuations in Ouray County have decreased significantly due to widespread economic malaise resulting in significantly decreased revenues to provide public health and safety services to the residents of and visitors to Ouray County; and

WHEREAS, over the past three years revenues to the County from property taxes have decreased by nearly \$750,000, and the County has responded with careful budgetary reductions that have not affected services to the public; and

WHEREAS, in the opinion of the Board and the County Administrator whose duty it is to prepare the budgets for the County, the anticipated revenue decreases for 2014 will not be able to be absorbed into the County's budget for 2014 without decreases in service to the public; and

WHEREAS, the Assessor reassesses property in the County every two years, and current predictions are that property values in the County will not return to levels prior to 2010 assessed values for at least two assessment cycles or longer, making any decreases in services likely to continue for several years; and

WHEREAS, the United States Congress and the Colorado General Assembly, as well as federal and state administrative agencies, continue to impose additional statutory and regulatory mandates that require additional resources without funding sufficient to comply with such mandates; and

WHEREAS, the Board has heard from the other elected officials of Ouray County that they believe it is imperative to increase revenues through a sales tax increase to off-set the decreases in property tax revenues; and

WHEREAS, the Board considered and discussed various options for increasing revenues, and has concluded that an increase in sales tax of .75% for a period of ten years is an equitable solution for the voters of the County to consider at a coordinated election; and

WHEREAS, Senate Bill 08-128 "Concerning the Elimination of the Statutory Limit on the Total Amount of Sales or Use Tax That May Be Levied by Certain Governmental Entities" was adopted by the Colorado Legislature in the 2008 legislative session and signed by the Governor on May 21, 2008, which bill eliminates the previous cap on sales tax; and

WHEREAS, Article 2, Title 29, Colorado Revised Statutes (hereinafter the "Article") provides for the imposition of a sales tax on the sale of tangible personal property at retail and the furnishing of services, subject to approval of the registered electors of Ouray County; and

WHEREAS, after careful consideration of the need to replace expected decreases in revenues from property taxes due to the decrease in assessed valuations, the Board has determined that the public interest requires that the rate of the County sales tax should be an additional three-quarters of one percent (.75%) on the sale of tangible personal property at retail or the furnishing of services; and

WHEREAS, if the sales tax is approved by a majority of electors of Ouray County, the sales tax will be used to ensure maintenance of public health and safety services in the County.

NOW THEREFORE, BE IT RESOLVED by the Board of County Commissioners of the County of Ouray that there shall be referred to the registered electors of Ouray County, at the coordinated election to be held on November 5, 2013, the following proposal:

Section 1. Sales Tax Definitions. For the purposes of Sections 1 through 4, inclusive, of this Resolution, the words used in this Resolution shall have the meanings set forth herein and in C.R.S. §39-26-102 as it currently exists or may hereafter be amended. The definitions in such statutes are incorporated herein by this specific reference.

Section 2. Sales Tax Imposed.

- (a) There is hereby imposed on the sale of tangible personal property at retail and the furnishing of services as provided in C.R.S. §29-2-105 (1) (d), a sales tax equal to .75% of the gross receipts (the "Sales Tax"). The tangible personal property and services taxable under this Resolution shall be the same as the tangible personal property and services taxable pursuant to C.R.S. §39-26-104, and subject to the same exemptions as those specified in Part 7 of Article 26 of Title 39, Colorado Revised Statutes, PROVIDED THAT all sales made to charitable organizations, in the conduct of their regular charitable functions and activities and occasional sales by a charitable organization all as set forth in C.R.S. §39-26-718 shall expressly be made exempt from the Sales Tax and the sale of such items is not made taxable under this Resolution. The imposition of the Sales Tax on individual sales shall be in accordance with schedules set forth in the rules and regulations promulgated by the Department of Revenue. If any vendor, during any reporting period, shall collect as the Sales Tax an amount in excess of the amount of the Sales Tax imposed by this Resolution, he shall remit to the Executive Director the full amount of the Sales Tax herein imposed and also such excess.
- (b) For the purpose of the Sales Tax, all retail sales shall be considered consummated at the place of business of the retailer, unless the tangible personal property 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 state sales and use tax 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 in the County, or has more than one place of business, the place at which the retail sales are consummated for the purpose of the Sales Tax shall be determined by the provisions of Article 26 of Title 39, C.R.S., and by rules and regulations promulgated by the Department of Revenue.
- (c) The amount subject to the Sales Tax shall not include the amount of any sales or use tax imposed by Article 26 of Title 39, C.R.S.
- (d) All sales of personal property on which a specific ownership tax has been paid or is payable shall be exempt from the Sales Tax when such sales meet both of the following conditions:
 - (i) The purchaser is nonresident of, or has his principal place of business outside the limits of the County; and
 - (ii) Such personal property is registered or required to be registered

outside the limits of the County under the laws of the State of Colorado.

- (e) As set forth in C.R.S. 29-2-105 (2), no Sales Tax shall apply to the sale of construction and building materials, as the term is used in C.R.S. §29-2-109, if such materials are picked up by the purchaser and if the purchaser of such materials presents to the retailer a building permit or other documentation acceptable to such local government evidencing that a local use tax has been paid or is required to be paid. As set forth in C.R.S. 29-2-105 (3), no Sales Tax shall apply to the sale of tangible personal property or the furnishing of services if the transaction was previously subjected to a sale or use tax lawfully imposed on the purchaser by another statutory or home rule county equal to or in excess of that sought to be imposed by the subsequent statutory or home rule county.

Section 3. Sales Tax Collection. The collection, administration, and enforcement of the Sales Tax shall be performed by the Executive Director of the Department of Revenue of the State of Colorado (the "Executive Director") in the same manner as the collection, administration, and enforcement of the Colorado State Sales Tax. Unless otherwise provided by Article 2 of Title 29, C.R.S., the provisions of Article 26 of Title 39, C.R.S. shall govern the collection, administration, and enforcement of the Sales Tax. Every vendor collecting Sales Tax as required herein shall be entitled to retain a fee in the amount of three-and-one-third percent of the sums collected, as provided by C.R.S. §39-26-105.

Section 4. Use of Revenues.

- (a) One hundred percent (100%) of the revenues received by Ouray County from this additional .75% Sales Tax shall be deposited to the "Public Health & Safety Operations Fund" (the "Fund"). All records of such Fund shall be open to public inspection consistent with the requirements of the Colorado Public (Open) Records Act. The revenues deposited to such Fund shall be used exclusively for the costs incurred to maintain public health and safety services provided by Ouray County, as well as state and federal mandates imposed on Ouray County, including, but not limited to, funding to support the County public health department, emergency management and response, weed control, Sheriff dispatch services, inmate housing and judicial services, search and rescue, wildfire management, animal control, coroner services and liability insurance for public buildings, and shall be expended when authorized by the Board by transfer to the proper county fund where the expenditures are appropriated.

Section 5. Duration of Sales Tax. The Sales Tax provided herein shall commence on January 1, 2014 and continue through December 31, 2023.

Section 6. Election. Before this Resolution shall become effective, it shall be submitted to and receive the approval of a majority of the registered electors of Ouray County voting thereon at the election to be held on Tuesday, November 5, 2013. The election shall be conducted as follows:

- (a) Conduct of Election. The Board hereby designates the Ouray County Clerk as the Election Official for the Conduct of the Election on behalf of the County, with the authority and direction to proceed with any action necessary or appropriate to effectuate the provisions of this Resolution and all constitutional and statutory provisions governing the conduct of this election. The County Clerk and Recorder, as election officer, shall undertake all measures necessary to comply with the election provisions set forth in Colo. Const., Art. X, Section 20 (3), including, but not limited to, the mailing of required election notices and ballot issue summaries.
- (b) Ballot Title. The ballot title for the Sales Tax question shall be in substantially the following form:

SHALL OURAY COUNTY TAXES BE INCREASED ANNUALLY BY \$386,625.00 (FIRST FULL FISCAL YEAR DOLLAR INCREASE IN 2014) OR BY WHATEVER AMOUNTS ARE RAISED, FROM THE LEVY OF AN INCREASE OF .75% (3/4 OF ONE PERCENT) SALES TAX ON THE SALE OF TANGIBLE PERSONAL PROPERTY AT RETAIL OR THE FURNISHING OF SERVICES, COMMENCING ON JANUARY 1, 2014 AND CONTINUING THEREAFTER FOR TEN YEARS THROUGH DECEMBER 31, 2023 AND SHALL THE NET REVENUES FROM SUCH SALES TAX BE DEPOSITED TO THE "PUBLIC HEALTH AND SAFETY OPERATIONS FUND" WITH PROCEEDS USED SPECIFICALLY FOR THE PURPOSE OF THE CERTAINTY OF BEING ABLE TO PROVIDE ADEQUATE PUBLIC HEALTH AND SAFETY, SUCH REVENUE TO BE USED EXCLUSIVELY FOR THE INCREASING COSTS AND RISING DEMANDS OF PUBLIC HEALTH NEEDS, PUBLIC SAFETY REQUIREMENTS, AS WELL AS STATE AND FEDERAL MANDATES IMPOSED ON OURAY COUNTY PERTAINING TO SUCH SERVICES; SUCH FUNDING TO SUPPORT THE OURAY COUNTY PUBLIC HEALTH DEPARTMENT; EMERGENCY MANAGEMENT AND RESPONSE; WEED CONTROL; SHERIFF DISPATCH SERVICES; INMATE HOUSING AND JUDICIAL SERVICES; SEARCH AND RESCUE; WILDFIRE MANAGEMENT; ANIMAL CONTROL; CORONER SERVICES; AND LIABILITY INSURANCE COVERAGE FOR PUBLIC BUILDINGS AND MAY ALL REVENUES GENERATED FROM SUCH SALES TAX BE COLLECTED, RETAINED AND SPENT AS A VOTER APPROVED REVENUE CHANGE, OFFSET AND EXCEPTION TO THE LIMITS THAT WOULD OTHERWISE APPLY UNDER ARTICLE X, SECTION 20 OF THE COLORADO CONSTITUTION OR COLORADO REVISED STATUTES SECTION 29-1-301, AS AMENDED, OR ANY OTHER LAW, ALL IN CONFORMANCE WITH OURAY COUNTY RESOLUTION 2013-031?

_____ YES _____ NO

Section 7. Effective Date. Upon passage of this Resolution and approval thereof at a subsequent election by the registered electors of Ouray County, Colorado the

proposals described in this Resolution shall take effect immediately upon approval of the electorate and the Sales Tax shall become effective on January 1, 2014.

- Section 8. Severability. If any portion of this Resolution is found to be void or ineffective, it shall be deemed severed from this Resolution and the remaining provisions shall remain valid and in full force and effect.
- Section 9. Publication. Upon adoption, the Ouray County Clerk and Recorder shall publish the text of this Resolution four separate times, a week apart, in the official newspaper of the County, and in the official newspaper of each incorporated municipality in the County.
- Section 10. Amendment. At any time prior to the deadline for finalizing election questions and ballot titles as provided by the applicable election laws, the Board may amend this Resolution by the proper adoption of a Resolution setting forth the amendment. Amendments may include, but not be limited to, the amount, duration, and uses of the Sales Tax.
- Section 11. Authorization. The officers of the County are authorized and directed to take all action necessary and appropriate to effectuate the provisions of this Resolution.
- Section 12. TABOR. For purposes of Colo. Const., Art. X, Section 20, the receipt and expenditure of the Sales Tax, if approved by the voters, together with any earnings on the investment of the proceeds of the Sales Tax shall constitute a voter-approved revenue change.

APPROVED AND ADOPTED THIS 10th DAY OF SEPTEMBER, 2013.

Voting for: Commissioners Padgett and Batchelder
Voting against: Commissioner Fedel




Michelle Nauer, Clerk and Recorder
By: Linda Munson-Haley, Deputy Clerk of the Board

BOARD OF COUNTY COMMISSIONERS
OF OURAY COUNTY, COLORADO


F. Mike Fedel, Chair


Lynn M. Padgett, Vice Chair


Don Batchelder, Commission Member