



**Background Paper for Proposed
Resolution**

COUNCIL MEETING DATE: June 13, 2022

TO: President Heather Graham and Members of City Council
VIA: Marisa Stoller, City Clerk
FROM: Mayor Nicholas A. Gradisar
SUBJECT: A RESOLUTION AUTHORIZING THE CITY OF PUEBLO TO JOIN A LAWSUIT TO BE FILED BY THE CITY AND COUNTY OF DENVER CHALLENGING THE VALIDITY OF COLORADO HOUSE BILL 22-1024 UNDER THE STATE CONSTITUTION

SUMMARY:

The proposed Resolution authorizes the City of Pueblo to join a lawsuit to be filed by the City and County of Denver, challenging the validity of HB 22-104 which was recently enacted by the State Legislature.

PREVIOUS COUNCIL ACTION:

Not applicable to this Resolution.

BACKGROUND:

HB 22-1024 purports to mandate an exemption from sales and use taxes imposed by home rule municipalities as applied to construction and building materials used for public and public charter school construction. Specifically, HB 22-1024 imposes on home rule municipalities the state's Colorado Revised Statutes Title 39 exemption on these materials.

HB 22-1024 is an unconstitutional attempt to exert state control over the taxing authority of home rule jurisdictions. The bill directly infringes upon the home rule powers of municipalities granted by Article XX, Section 6 of the Colorado Constitution and contravenes explicit precedent of the Colorado Supreme Court.

HB 22-1024 could open the door to an onslaught of tax exemption bills to benefit special interests that have long sought to impose any of over 80 state tax exemptions on home rule tax codes. Title 39 of the Colorado Revised Statutes contains many sales and use tax exemptions. In the future, special interest groups could lobby the General Assembly to require home rule cities like Pueblo to grant sales and use tax exemptions for the benefit of such special interests. These efforts would not only attack the home rule authority but the financial ability of home rule municipalities to provide services to their residents.

FINANCIAL IMPLICATIONS:

None.

BOARD/COMMISSION RECOMMENDATION:

Not applicable to this Resolution.

STAKEHOLDER PROCESS:

Not applicable to this Resolution.

ALTERNATIVES:

Not support the efforts of the City and County of Denver to have HB 22-1024 declared unconstitutional.

RECOMMENDATION:

Approval of the Resolution.

Attachments:

Proposed Resolution

RESOLUTION NO. 14918

A RESOLUTION AUTHORIZING THE CITY OF PUEBLO TO JOIN A LAWSUIT TO BE FILED BY THE CITY AND COUNTY OF DENVER CHALLENGING THE VALIDITY OF COLORADO HOUSE BILL 22-1024 UNDER THE STATE CONSTITUTION

BE IT RESOLVED BY THE CITY COUNCIL OF PUEBLO, that:

SECTION 1.

The City Attorney is authorized, on behalf of the City of Pueblo, to join a lawsuit to be filed by the City and County of Denver, challenging the validity of HB 22-104 which was recently enacted by the State Legislature.

SECTION 2.

The officers of the City are authorized to perform any and all acts consistent with this Resolution to implement the policies and procedures described herein.

SECTION 3.

This Resolution shall become effective immediately upon final passage.

INTRODUCED June 13, 2022

BY: Larry Atencio
MEMBER OF CITY COUNCIL

APPROVED: 
PRESIDENT OF CITY COUNCIL

ATTESTED BY: 
CITY CLERK