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## Regulated Substances & Gaming Committee

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### HB 1650

**Brief Description:** Requiring voter approval for local government prohibitions on cannabis businesses.

**Sponsors:** Representatives Wylie and Kloba.

#### Brief Summary of Bill

- Prevents local governments from prohibiting cannabis retail businesses in their jurisdiction after July 1, 2027, unless a majority of voters in the jurisdiction voting in a general election vote to approve an ordinance prohibiting cannabis retailers.
- Establishes state preemption of the regulation of cannabis retail businesses except for the authorization for voter-approved bans and limited exceptions.
- Reallocates certain cannabis excise tax revenues until July 1, 2032.

**Hearing Date:** 1/9/24

**Staff:** Peter Clodfelter (786-7127).

#### Background:

Following enactment of Initiative 502 (I-502) in 2012 legalizing adult-use cannabis and establishing a state licensing and regulatory structure, some cities, towns, and counties in Washington enacted bans, moratoria, or policies against authorizing or permitting cannabis business activity in their jurisdiction. A 2014 Washington State Attorney General opinion concluded that I-502 does not preempt local governments from banning licensed cannabis

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businesses from being sited or operating in their jurisdiction. A 2018 opinion of the Washington State Court of Appeals Division II reached the same conclusion. Currently, certain cities, towns, and counties throughout Washington have these types of policies enacted in ordinances prohibiting the siting or operation of licensed cannabis businesses within the jurisdiction. Generally, local governments have broad authority to legislate in furtherance of public health, safety, and welfare and are preempted from enacting local ordinances only if expressly or implicitly preempted by state law.

### **Summary of Bill:**

Beginning July 1, 2027, a city, town, or county may prohibit the siting or operation of any business or facility to be used for the retail sale of cannabis products only if: (1) the city, town, or county initiates an ordinance by submitting a ballot proposition at a general election prohibiting the siting or operation of any business or facility to be used for the retail sale of cannabis; (2) a majority of the voters of the county, city, or town voting in the election approve the prohibition; and (3) the election is held on a date after July 1, 2023.

A prohibition takes effect on the date specified in the ballot proposition. If no effective date is specified in the ballot proposition, the prohibition takes effect on a date specified by the legislative authority that must be at least 30 days and no later than 60 days after the election.

With respect to a county enacting an ordinance, the ordinance may apply only to unincorporated areas of the county. No voters within the boundaries of an incorporated city or town may participate in a county election.

It is established that the state has sole authority to regulate licensed cannabis retailers. Counties, cities, and towns are preempted from engaging in the regulation of cannabis retailers other than enacting voter-approved bans on cannabis retailers. However, cities, towns, and counties retain their existing zoning authority regarding the siting of cannabis retailers. It is also specified that nothing in the legislation may be construed to prevent a city, town, or county from applying ordinances of general application to cannabis businesses.

Except by voter approval, counties, cities, and towns may not enact any ordinance, regulation, or land use plan that has the effect of precluding the siting or operation of cannabis retailers within their jurisdictional boundaries. However, a city, town, or county that prohibits the siting and operation of any retail business within its jurisdictional boundaries may enact an ordinance or regulation that precludes the siting and operation of state cannabis businesses.

Following the passage of a local ordinance by voter approval at a general election, the Liquor and Cannabis Board may not issue a cannabis retail license with respect to a business that is either located or proposed to be located within an area subject to the ordinance.

Until July 1, 2032, an amount equivalent to the total cannabis excise taxes generated by retail outlets in cities, towns, and counties that, on the effective date of the act, have a ban or

moratorium on the operation or siting of cannabis retailers and have no cannabis retailers operating in their jurisdiction, and that, after the effective date of the act, authorize cannabis retail activity, must be disbursed annually as follows: (1) 50 percent of funds must be used to support substance abuse disorder prevention treatment services including development of best practices for programs and services; and (2) 50 percent of funds must be used for cannabis research including research conducted by the University of Washington and Washington State University.

**Appropriation:** None.

**Fiscal Note:** Available.

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