



BOARD OF SUPERVISORS  
AGENDA LETTER

Agenda Number:

Clerk of the Board of Supervisors  
105 E. Anapamu Street, Suite 407  
Santa Barbara, CA 93101  
(805) 568-2240

**Department Name:** CEO  
**Department No.:** 012  
**For Agenda Of:** 5/18/2010  
**Placement:** Administrative  
**Estimated Tme:** 5 minutes  
**Continued Item:** No  
**If Yes, date from:**  
**Vote Required:** Majority

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**TO:** Board of Supervisors  
**FROM:** Department Michael F. Brown, County Executive Officer  
Director(s)  
Contact Info: Terri Nisich, Assistant County Executive Officer  
**SUBJECT:** Update on Transient Occupancy Tax Rate Ballot Measure (K2010)

**County Counsel Concurrence**

As to form: Yes

**Auditor-Controller Concurrence**

As to form: Select\_Concurrence

**Other Concurrence:** Select\_Other

As to form: Select\_Concurrence

**Recommended Actions:**

Receive a written update on Measure K2010, the Transient Occupancy Tax Rate, which is a local measure on the June 8, 2010 statewide primary election.

**Summary Text:**

The June 8, 2010 election includes a local measure known as Measure K2010, which proposes to continue the transient occupancy tax (TOT) rate at its current level of ten percent. The Clerk-Recorder-Assessor announced on May 9, 2010 that over 101,000 Vote by Mail ballots are being delivered to the post office on May 10, 2010 for the upcoming election. If Measure K2010 is not approved by the voters, the tax would be dropped to eight percent and the County would be projected to lose \$1.2 million of County General Fund revenue for the fiscal year 2010-11 and on an on-going basis thereafter.

**Background:**

On February 2, 2010, the Board of Supervisors adopted a resolution proposing to continue the transient occupancy tax (TOT) rate at its current level of ten percent. The Board also authorized the submittal of the TOT rate to the electorate and authorized the County Election Official to place a ballot measure regarding the continuation of the 10% TOT rate on the June 8, 2010 General Election. On March 2, 2010, the Board of Supervisors authorized an argument in favor of the ballot measure to be placed in the County's voter pamphlet guide. The voter pamphlet now contains an impartial analysis, a fiscal impact, an argument in favor and the full text of the measure. No argument has been filed against the measure.

**Fiscal Analysis:**

If this measure is not approved, the tax would be dropped to 8% and the County would be projected to lose \$1.2 million of County General Fund revenue for the fiscal year 2010-11 and on an on-going basis thereafter. A higher projected loss of \$1.4 million per year would result if the tax returned to the levels generated prior to the recession.

The revenue generated by the transient occupancy tax is considered general revenue for the County and is the third largest discretionary tax source, following property taxes and retail sales taxes. These resources have generally been spent on general County programs, activities and services that include public safety, law and justice, health, public assistance, community resources, public facilities, legislative, administrative and general governmental services.

**Attachments:**

FISCAL IMPACT STATEMENT BY COUNTY AUDITOR CONTROLLER: MEASURE K2010

IMPARTIAL ANALYSIS BY COUNTY COUNSEL

ARGUMENT IN FAVOR OF MEASURE K2010

FULL TEXT OF MEASURE K2010

**Authored by:**

Sharon Friedrichsen, Assistant to the County Executive Officer

**IMPARTIAL ANALYSIS BY COUNTY COUNSEL**

**MEASURE K2010**

**Meaning of Voting Yes/No**

**A YES vote on this measure means:**

A majority "yes" vote allows the County of Santa Barbara's Transient Occupancy Tax (commonly referred to as the "Hotel Tax") rate to continue at 10%.

**A NO vote on this measure means:**

A majority "no" vote means that the Hotel Tax rate would revert to 8%.

In 1978, the County Board of Supervisors set the transient occupancy tax rate at 8%. In 1990, the Board of Supervisors increased the tax rate to 10%. In order to ensure that the 10% transient occupancy tax rate is in compliance with state law as interpreted by the California Supreme Court, the Board of Supervisors submits this measure to the electorate.

The California Constitution and the Government Code authorize the County, upon a majority vote, to levy a general tax. The Revenue and Taxation Code authorizes the County to levy a tax on the privilege of occupying a room or rooms, or other living space, in a hotel, inn, tourist home or house, motel, or other lodging for 30 days or less in the unincorporated areas of the County. The transient occupancy tax is commonly referred to as the "Hotel Tax".

The transient occupancy tax is a general tax. Revenues from the transient occupancy tax go into the County's general fund and may be used for general governmental purposes, without restriction.

Although the tax is collected only in the unincorporated areas of the County, the law requires that there be a Countywide vote on the question of continuing collection at the 10% tax rate.

This measure would authorize the continuation of the 10% tax rate that was adopted by the Board of Supervisors in 1990 for the transient occupancy tax. If the measure does not pass, the transient occupancy tax rate would revert to 8%.

This measure passes if a majority voting on the measure vote "yes".

Signed:

Dennis A. Marshall  
County Counsel

The above statement is an impartial analysis of Measure K2010. If you desire a copy of the ordinance or measure, please call the Santa Barbara County Elections Office at (805) 568-2000 and a copy will be mailed at no cost to you.

**FISCAL IMPACT STATEMENT BY COUNTY AUDITOR-CONTROLLER**

**MEASURE K2010**

In 1963, local governments were granted the power to tax the privilege of occupying a room or other living space in a hotel, motel, inn, tourist home, or other lodging when rented for 30 days or less. The transient occupancy tax (also commonly referred to as a hotel bed tax) is collected by the lodging operator and then remitted to the County Treasurer for the unincorporated area of the County.

The transient occupancy tax is currently 10% of the daily rent. The tax generated \$7.2 million at its peak in fiscal year 2007-08 for the County General Fund, dropped to \$6.4 million for fiscal year 2008-09, and is projected to decline to \$5.8 million for fiscal year 2009-10 due to the economic recession. It is projected to increase modestly to \$6.0 million for the fiscal year 2010-11. If this measure is not approved, the tax would be dropped to 8% and the County would be projected to lose \$1.2 million of County General Fund revenue for the fiscal year 2010-11 and on an on-going basis thereafter. A higher projected loss of \$1.4 million per year would result if the tax returned to the levels generated prior to the recession.

The revenue generated by the transient occupancy tax is considered general revenue for the County and is the third largest discretionary tax source, following property taxes and retail sales taxes. Since formation of county government in the 1850's, these resources have generally been spent on general County programs, activities and services that include public safety, law and justice, health, public assistance, community resources, public facilities, legislative, administrative and general governmental services. Should the measure not pass, a loss of revenue due to the tax decrease may result in an equivalent amount of expenditure reduction in these programs, activities and services.

Signed:

Robert W. Geis, C.P.A.  
County Auditor-Controller

**ARGUMENT IN FAVOR OF  
MEASURE K2010**

**Measure K is fair**

Tourists and business people who visit and stay in hotels and other paid lodging in unincorporated County areas have been paying a 10% tax on their room charge for over 20 years. The "hotel bed tax," or transient occupancy tax, is a general tax imposed upon hotel guests and is equal to 10% of the daily room rate. Voting for this measure will keep the 10% rate in place locally. Sacramento cannot borrow or take away this tax. The tax revenue is for local needs.

**Measure K is necessary**

Approval of Measure K would ensure that the many thousands of visitors, who travel our streets, enjoy our beaches, parks, trails and open space and rely on our sheriff, fire and medical services and clinics would contribute to a portion of the costs of service.

The "hotel bed tax" revenues are used for general government services such as public safety, law and justice, health and parks. They are also used for fire suppression, patrol services, crime prevention, criminal prosecution, gang suppression and operating the juvenile hall and jail. The "hotel bed tax" also contributes to health clinics, children's services, libraries and parks. A "NO" vote would cost the County \$1.2 million in lost revenue as the hotel tax would drop to only 8%. Funding cuts would then have to be made to these services starting on July 1, 2010. A "YES" vote makes no change in the 20-year old tax rate but sustains revenue flow to help pay for vital local services.

The undersigned author of the argument in favor of Measure K2010 at the Primary Election for the County of Santa Barbara to be held on June 8, 2010 hereby state(s) that such argument is true and correct to the best of her knowledge and belief.

Board of Supervisors of the County of Santa Barbara

Signed:

Janet Wolf, Chair  
On behalf of the Board of Supervisors, County of Santa Barbara

**RESOLUTION NO. 10-045**

**RESOLUTION OF THE  
SANTA BARBARA COUNTY BOARD OF SUPERVISORS  
PROPOSING TO CONTINUE THE TRANSIENT OCCUPANCY TAX RATE AT  
ITS CURRENT LEVEL OF TEN PERCENT (10%), SUBMITTING THE  
PROPOSED LANGUAGE FOR CONTINUATION TO THE ELECTORATE FOR  
APPROVAL, AND REQUESTING AND ORDERING CONSOLIDATION WITH  
THE JUNE 8, 2010 GENERAL ELECTION ON SAID TAX RATE  
CONTINUATION**

**WHEREAS**, Article XIII C, Section 2 of the California Constitution, and Government Code Section 53723 authorize the Board of Supervisors of the County of Santa Barbara to impose, extend or increase a general tax upon a majority vote of the population; and

**WHEREAS**, Revenue and Taxation Code Section 7280 authorizes the County to levy a tax on the privilege of occupying a room or rooms, or other living space, in a hotel, inn, tourist homes or house, motel, or other lodging; and

**WHEREAS**, the Board of Supervisors may submit to the voters, without petition, an ordinance for the repeal, amendment, or enactment of any ordinance pursuant to Election Code Section 9140; and

**WHEREAS**, in 1978, the Board of Supervisors amended the Santa Barbara County Code to set a transient occupancy tax in the amount of eight percent (8%) of the rent charged by the operator of any hotel or similar structure designed for transient occupancy; and

**WHEREAS**, in 1990, the Board of Supervisors amended the Santa Barbara County Code to increase the transient occupancy tax to ten percent (10%) of the rent charged by the operator of any hotel or similar structure designed for transient occupancy; and

**WHEREAS**, the California Supreme Court subsequently held that the continued imposition and collection of a general tax starts a new statute of limitations period for Proposition 62 legal challenges to the tax that is collected; and

**WHEREAS**, in order to ensure that the County's transient occupancy tax is legally sound, the Board of Supervisors desires to submit the current transient occupancy tax rate to a vote of the people to determine whether the current transient occupancy tax of ten percent (10%) of rent should be ratified and continued; and

**WHEREAS**, if the current rate is not continued by the voters, then the transient occupancy tax would revert to the rate of eight percent (8%) established in 1978 (prior to Proposition 62).

**NOW, THEREFORE, BE IT RESOLVED** that:

1. The Board of Supervisors of the County of Santa Barbara hereby proposes the ordinance attached hereto as Exhibit "A" to continue the current ten percent (10%) transient occupancy tax rate from the pre-Proposition 62 tax rate of eight percent (8%) for general governmental purposes.

2. The Board of Supervisors of the County of Santa Barbara hereby submits the ordinance and proposed tax (the current existing tax) to the electorate for approval, calls an election for June 8, 2010 for approval of the ordinance and the existing tax, and requests and orders that this election be consolidated with the general election to be held on that date.

3. The transient occupancy tax is a general tax imposed upon transients for the privilege of occupying defined hotels located within the unincorporated territory of Santa Barbara County. If approved by a majority of the electorate voting on the measure, the ordinance will continue the current transient occupancy tax rate of ten percent (10%). If rejected by the electorate voting on the measure, the transient occupancy tax would revert to the pre-Proposition 62 tax rate of eight percent (8%). The tax would be collected by hotel operators, in the same manner as it has historically been collected. The collection of the tax from hotel operators would be administered by the Santa Barbara County Tax Collector as provided in Section 32-15 of the Santa Barbara County Code.

4. The Board of Supervisors intends for such voter approval to have the effect of ratifying and continuing the Board of Supervisors' 1990 two percent (2%) increase of the County's transient occupancy tax.

5. The transient occupancy tax imposed by the ordinance is a general tax within the meaning of Government Code Section 53721 and Article XIII C, Section 1(a) of the California Constitution. The revenue generated by this general tax is available for general governmental purposes.

6. The measure shall be submitted to the voters in the following form:

Shall an ordinance to continue Section 32-12 of the Santa Barbara County Code to sustain the current transient occupancy tax rate of ten percent (10%) upon transients occupying defined hotels located only within the unincorporated area of Santa Barbara County be approved?	Yes
	No

7. The County Clerk is hereby authorized, instructed, and directed to provide and furnish any and all official ballots, notices, printed matter, and all supplies, equipment, and paraphernalia that may be necessary in order to properly and lawfully conduct an election.

8. The County Clerk is hereby further directed to take the necessary and appropriate actions to provide the necessary election officers, polling places, and voting precincts.

9. In accordance with the provisions of the Election Code, the County Counsel is authorized to prepare an impartial analysis of the measure, and the Auditor is directed to prepare a fiscal analysis.

10. The polls for said election shall be open during the hours required by law and said election, with respect to the foregoing ballot measure, shall be held and conducted as provided by law for the holding of County elections.

11. Notice of time and place of holding said election, together with any other notices required by law, shall be given by the County Clerk.

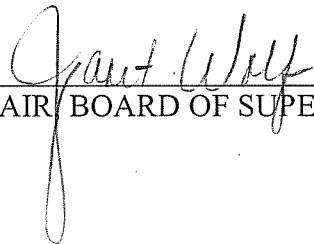
**PASSED, APPROVED AND ADOPTED** at a regular meeting of the Board of Supervisors of the County of Santa Barbara held on this 2nd day of February, 2010, by the following vote:

AYES: Supervisors Carbajal, Wolf, Farr, Gray

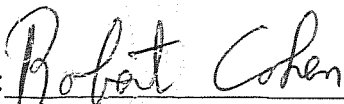
NOES: Supervisor Centeno

ABSTAIN: None

ABSENT: None

  
\_\_\_\_\_  
CHAIR, BOARD OF SUPERVISORS

ATTEST:  
MICHAEL F. BROWN  
CLERK OF THE BOARD

By:   
\_\_\_\_\_  
Deputy

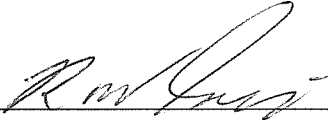
APPROVED AS TO FORM:

DENNIS A. MARSHALL  
COUNTY COUNSEL

By:   
Deputy County Counsel

APPROVED AS TO ACCOUNTING FORM:

ROBERT GEIS  
AUDITOR-CONTROLLER

By:   
Deputy

**EXHIBIT A**

**PROPOSED ORDINANCE TO  
CONTINUE THE CURRENT  
TRANSIENT OCCUPANCY TAX RATE**

**ORDINANCE NO. \_\_\_\_\_**

**AN ORDINANCE OF THE BOARD OF SUPERVISORS OF THE COUNTY OF SANTA BARBARA, STATE OF CALIFORNIA CONTINUING THE PROVISIONS OF COUNTY CODE SECTION 32-12 TO SUSTAIN THE CURRENT TRANSIENT OCCUPANCY TAX RATE OF TEN PERCENT (10%)**

THE PEOPLE OF THE COUNTY OF SANTA BARBARA ORDAIN AS FOLLOWS:

SECTION I: VOTER APPROVAL OF SANTA BARBARA COUNTY CODE

SECTION 32-12. Section 32-12 of the Santa Barbara County Code is hereby set forth for voter approval to read as follows:

32-12. Tax imposed on Transients; Rate; When Payable

For the privilege of occupancy in any hotel, each transient is subject to and shall pay a tax in the amount of ten percent (10%) of the rent charged by the operator. Such tax constitutes a debt owed by the transient to the County which is extinguished only by payment to the operator or to the County. The transient shall pay the tax to the operator of the hotel at the time the rent is paid. If the rent is paid in installments, a proportionate share of the tax shall be paid with each installment. The unpaid tax shall be due upon the transient's ceasing to occupy space in the hotel. If for any reason the tax is not paid to the operator of the hotel, the County Tax Collector may require that such tax shall be paid directly to the County Tax Collector.

SECTION II: NATURE OF TAX. If approved by a majority of the electorate voting on the measure, the ordinance will continue the current transient occupancy tax rate of ten percent (10%) of rent charged. The transient occupancy tax is a tax imposed upon transients for the privilege of occupying defined hotels located within the

unincorporated territory of Santa Barbara County. The tax would be collected by hotel operators in the same manner as the current transient occupancy tax is collected. The collection of the tax from hotel operators would be administered by the Santa Barbara County Tax Collector as provided in Section 32-15 of the Santa Barbara County Code.

SECTION III: GENERAL TAX. The transient occupancy tax imposed by this ordinance is a general tax within the meaning of Government Code Section 53721 and Article XIII C, Section 1(a) of the California Constitution. The revenue generated by this general tax is available for general governmental purposes. To that end, the Auditor-Controller is instructed to deposit the revenue from the tax into the County General Fund and to include his estimate of the revenue from this general tax, together with his estimates of other revenue sources, in the tabulation that he is annually required to prepare by Government Code Section 29060. The revenue from this general tax shall be made available to the Board of Supervisors for annual appropriation in the County's budget for any lawful expenditure. Nothing in this ordinance nor in any other ordinance, advisory measure, resolution, or policy shall be construed as limiting, in any way, the amount or the objects of the appropriations and expenditures that can be made from the revenue of the tax nor be construed as creating a continuing appropriation.

SECTION IV: EFFECT. Voter approval of this ordinance shall have the effect of ratifying and continuing the Board of Supervisors' 1990 two percent (2%) increase of the transient occupancy tax.

SECTION V: SEVERABILITY. If any provision of this ordinance or the application thereof to any person or circumstance is held invalid, the remainder of the

ordinance and the application of such provision to other persons or circumstances shall not be affected thereby.

SECTION VI: ELECTION. An election shall be held on June 8, 2010, on the issue of continuing the current transient occupancy tax rate at ten percent (10%) of rent charged. If the measure is defeated, the transient occupancy tax will revert to the transient occupancy tax of eight percent (8%) of rent charged.

SECTION VII: EFFECTIVE DATE. This ordinance shall take effect immediately upon its adoption by a majority of the electorate voting on the ordinance at the June 8, 2010 general election.

**Approved by resolution of the Board of Supervisors of the County of Santa Barbara on the \_\_\_\_ day of \_\_\_\_\_, 2010, by the following vote, for adoption by the electorate at the election of June 8, 2010:**

AYES:

NOES:

ABSTAIN:

ABSENT:

\_\_\_\_\_  
CHAIR, BOARD OF SUPERVISORS

ATTEST:  
MICHAEL F. BROWN  
CLERK OF THE BOARD

By: \_\_\_\_\_  
Deputy