



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: February 6, 2018
Placement: Departmental
Estimated Tme: 90 minutes
Continued Item: No
If Yes, date from:
Vote Required: 4/5 for Option 1 or
3/5 for Option 2

TO: Board of Supervisors

FROM: Department Director(s) Mona Miyasato, County Executive Officer
Contact Info: Dennis Bozanich, Deputy County Executive Officer

SUBJECT: Cannabis Operations Tax Ballot Measure for June 2018 Primary Election Ballot

County Counsel Concurrence

As to form: Yes

Auditor-Controller Concurrence

As to form: Yes

Treasurer-Tax Collector Concurrence

As to form: Yes

Recommended Actions:

That on February 6, 2018, the Board of Supervisors (Board) considers the following actions:

OPTION 1 – General Tax Measure:

- a. Receive and consider a report from staff regarding placing a measure on the June 5, 2018 Primary Election ballot establishing a possible Cannabis Operations General Tax on gross receipts at rates of 1% for nursery operations; 1% for distributor (excluding distributor transport only) operations; 3% for manufacturing operations; 4% for cultivation operations; 6% for retailer operations; and 6% for microbusiness operations; and a cap that in no event shall any person, conducting multiple of the above operations, pay more than 8% of gross receipts. The tax may be imposed either in the unincorporated areas of the County or countywide;
- b. Consider the introduction (First Reading) of an Ordinance of the Board of Supervisors of the County of Santa Barbara Adding Chapter 50A to the Santa Barbara County Code, Imposing a Tax on Cannabis Operations (Attachment 1);

- c. Read title: “Ordinance of the Board of Supervisors of the County of Santa Barbara Adding Chapter 50A to the Santa Barbara County Code Imposing a Tax on Cannabis Operations,” and waive reading of the Ordinance in full;
- d. Set a hearing on the Administrative Agenda for February 13, 2018 to:
 - 1. Consider the adoption (Second Reading) of an Ordinance Adding Chapter 50A to the Santa Barbara County Code, Imposing a Tax on Cannabis Operations; and
 - 2. Consider the adoption of a Resolution proposing to impose a tax on cannabis operations, submitting the proposed Ordinance and ballot language to the electorate for approval, and requesting and ordering consolidation with the June 5, 2018 Primary Election (Attachment 2); and
- e. Appoint member(s) of the Board of Supervisors to draft, on behalf of the Board, an argument in favor of the Tax on Cannabis Operations ballot measure and return to the Board for consideration prior to February 28, 2018; and
- f. Determine that the above actions are not a project under the California Environmental Quality Act (CEQA) pursuant to Section 15378(b)(4) of the CEQA Guidelines because they consist of the creation of government funding mechanisms which do not involve any commitment to any specific project which may result in a potentially significant physical impact on the environment.

OPTION 2 – Special Tax Measure:

- a. Receive and consider a report from staff regarding placing a measure on the June 5, 2018 Primary Election ballot establishing a possible Cannabis Operations Special Tax on gross receipts at rates of 1% for nursery operations; 1% for distributor operations; 3% for manufacturing operations; 4% for cultivation operations; 6% for retailer and operations; and 6% for microbusiness operations; and a cap that in no event shall any person, conducting multiple of the above operations, pay more than 8% of gross receipts. The tax may be imposed either in the unincorporated areas of the County or countywide;
- b. Consider the introduction (First Reading) of an Ordinance of the Board of Supervisors of the County of Santa Barbara Adding Chapter 50A to the Santa Barbara County Code, Imposing a Tax on Cannabis Operations (Attachment 3);
- c. Read title: “Ordinance of the Board of Supervisors of the County of Santa Barbara Adding Chapter 50A to the Santa Barbara County Code Imposing a Tax on Cannabis Operations,” and waive reading of the Ordinance in full;
- d. Set a hearing on the Administrative Agenda for February 13, 2018 to:
 - 1. Consider the adoption (Second Reading) of an Ordinance Adding Chapter 50A to the Santa Barbara County Code, Imposing a Tax on Cannabis Operations; and
 - 2. Consider the adoption of a Resolution proposing to impose a tax on cannabis operations, submitting the proposed Ordinance and ballot language to the electorate for approval, and requesting and ordering consolidation with the June 5, 2018 Primary Election (Attachment 4); and

- e. Appoint member(s) of the Board of Supervisors to draft, on behalf of the Board, an argument in favor of the Tax on Cannabis Operations ballot measure and return to the Board for consideration prior to February 28, 2018; and
- f. Determine that the above actions are not a project under the California Environmental Quality Act (CEQA) pursuant to Section 15378(b)(4) of the CEQA Guidelines because they consist of the creation of government funding mechanisms which do not involve any commitment to any specific project which may result in a potentially significant physical impact on the environment.

Summary Text:

The ability for the County to levy a Cannabis Operations Tax is provided under the California Revenue and Taxation Code Section 34021.5(a)(1). On January 23, 2018, the Board directed staff to return on February 6, 2018 for the first reading of both a: 1) General Tax Ordinance and Resolution, and 2) Special Tax Ordinance and Resolution on cannabis operations in Santa Barbara County for possible addition to the June Primary Election Ballot. The Board also requested that staff develop options to impose the tax in, either the unincorporated area of the county only, or to impose the tax countywide as allowed by California Revenue and Taxation Code Section 34021.5(a)(3).

Background:

This agenda item provides the Board with two options, as directed, for placing a ballot measure before the voters on the June 2018 ballot to impose a tax on cannabis operations.

- Option 1, imposition of a **general tax** for general purposes, would require the ballot measure to receive majority approval of the local electorate that casts a ballot on this measure. A 4/5 vote of the Board is needed to adopt a resolution asking the voters to approve a Board-initiated ordinance to impose the Cannabis Operations General Tax. The draft resolutions and ordinances (Attachment 2) for Board consideration are included as attachments to this report.
- Option 2, imposition of a **special tax** for specific purposes, would require the ballot measure to receive 2/3 approval of the local electorate that casts a ballot on this measure. The proposed Cannabis Operations Special Tax ordinance identifies the specific uses for tax revenues collected if the ballot measure is approved by local voters. A majority vote of the Board is needed to adopt a resolution asking the voters to pass a Board-initiated ordinance to impose the Cannabis Operations Special Tax. The draft resolutions and ordinances (Attachment 4) for Board consideration are included as attachments to this report.

As a special tax, the revenue generated by this ordinance shall only be used for the following specific purposes:

- a) The Board of Supervisors will allocate, up to the first \$1,750,000 collected each fiscal year, to County departments for enforcement, investigation and civil or criminal prosecution activities related to unpermitted and unlicensed cannabis operations in the unincorporated area of the County. Effective beginning July 2019, this amount will be adjusted annually utilizing the Los Angeles-Riverside-Orange County, CA Consumer Price Index, All Items for All Urban Consumers.

- b) The remainder of the funds collected each year shall be allocated among the following County departments in accordance with the County's Cannabis Revenue Allocation Policy: Sheriff's Department, District Attorney, Public Defender, Behavioral Wellness, Public Health, Planning & Development and Agriculture Commissioner's Office. The Cannabis Revenue Allocation Policy will be reviewed and approved annually by the Board of Supervisors at a duly noticed public meeting.
- c) Prior to the allocations above, County departments may be funded first from the tax revenues for their actual administrative, legal, and tax administration costs, not to exceed 20% of the total tax revenue per year.

The proceeds of the tax shall be applied only to the specific purposes identified above.

The foregoing revenues will be allocated annually by the Board of Supervisors through the annual budget process to support appropriations for the above purposes. Such appropriations may be revised pursuant to the County Budget Act, so long as the revisions are consistent with the purposes described in this Chapter. The Board of Supervisors finds that the foregoing uses are of public benefit to the County and its residents.

The Board also requested further options for imposing the tax on cannabis operations only in the unincorporated area of the county OR for imposing the tax on operations countywide. The draft ordinances and resolutions provided to you in the attachments are written to impose the cannabis operations tax exclusively in the unincorporated area of the county. Staff will have pre-drafted language, ready for insertion into Option 1 or 2 listed above, if the Board is still interested in imposing the tax countywide.

Imposing a vertical integration cap of 8% provides an incentive for multiple operation types to work together through one or more entities. The benefit of integration, including, but not limited to, reduced transportation of cannabis products and other benefits, outweighs any possible reduction in tax revenue.

This agenda item also gives the Board an opportunity to discuss the options for proposed ballot language and provide any comments before the resolution is adopted. The proposed ballot language can be no more than 75 words.

Fiscal and Facilities Impacts:

Budgeted:

A decision to place the imposition of a Cannabis Operations Tax on the June 2018 ballot will cost the County in the range of \$50,000 - \$130,000 for our proportional share of ballot preparation and printing costs. If the Cannabis Operations Tax ballot measure is successful, approximately \$5 million to \$25 million in additional annual revenue would be received by the County.

Attachments:

Attachment 1: Proposed Ordinance for a General Tax on Cannabis Operations (Option 1)

Attachment 2: Resolution to place the Cannabis Operation General Tax measure on the June 2018 Primary Election Ballot (Option 1)

Attachment 3: Proposed Ordinance for a Special Tax on Cannabis Operations (Option 2)

Attachment 4: Resolution to place the Cannabis Operation Special Tax measure on the June 2018 Primary Election Ballot (Option 2)

Special Instructions:

The Clerk of the Board is requested to publish notice of the Ordinance chosen by the Board in accordance with Govt. Code Section 25124.

Authored by:

Dennis Bozanich, Deputy County Executive Officer

CC:

Theo Fallati, Auditor-Controller
Harry Hagen, Treasurer - Tax Collector