

RESOLUTION NO. 16-101

RESOLUTION OF THE BOARD OF SUPERVISORS OF THE COUNTY OF MENDOCINO, STATE OF CALIFORNIA, CALLING FOR AN ELECTION TO PRESENT TO THE VOTERS OF THE COUNTY (1) A PROPOSED ORDINANCE ADDING A CHAPTER 6.32 TO THE MENDOCINO COUNTY CODE ESTABLISHING CANNABIS BUSINESS LICENSE TAXES AND (2) AN ADVISORY BALLOT MEASURE REGARDING THE EXPENDITURE OF ANY FUNDS RAISED BY CHAPTER 6.32, IF APPROVED BY THE VOTERS, AND ORDERING CONSOLIDATION OF SAID ELECTION WITH THE CONSOLIDATED GENERAL ELECTION CALLED FOR NOVEMBER 8, 2016 (COUNTYWIDE)

WHEREAS, Revenue and Taxation Code sections 7284 and 7284.4 provide that a county may establish business licenses and a license tax, subject to any applicable voter approval requirement imposed by law; and

WHEREAS, Government Code sections 53723 and 53724 provide that a legislative body may not impose a general tax unless or until the tax is submitted to the electorate of the local government and approved by a majority vote of the voters voting in an election on the issue; and

WHEREAS, Government Code section 53724 additionally provides that no tax subject to the vote requirement prescribed by Government Code section 53723 (general taxes) shall be presented at an election unless the ordinance or resolution proposing such tax is approved by a two-thirds vote of all members of the legislative body of the local government; and

WHEREAS, Elections Code section 9140 authorizes the Board of Supervisors to submit to the voters, without a petition, an ordinance for the repeal, amendment or enactment of any ordinance, to be voted on at any succeeding, regular or special election and, receiving the majority of votes cast, the ordinance shall be repealed, amended, or enacted accordingly; and

WHEREAS, through the passage of Proposition 215 in 1996, the voters of the State of California authorized the use of cannabis for medical purposes; and

WHEREAS, the Board of Supervisors of the County of Mendocino has adopted medical cannabis regulations to prevent cultivation from being a public nuisance, including a permitting program, and desires to provide appropriate licensing and revenue for the County in a manner consistent with State law; and

WHEREAS, every person engaged in business activity in the County of Mendocino is required to obtain a business tax certificate and to pay the County business tax; and

WHEREAS, Title 6 of the Mendocino County Code, relating to Business Licenses and Regulations, does not currently include cannabis businesses and such businesses are not specifically placed in a classification category; and

WHEREAS, the Board of Supervisors of the County of Mendocino desires to create a new Chapter 6.32, creating new business license tax rates for the following types of cannabis businesses: (a) Medical Cannabis Dispensaries, (b) Medical Cannabis Cultivation, (c) Medical Cannabis Manufacturing, (d) Medical Cannabis Testing Facilities, (e) Medical Cannabis Transportation and Distribution, and (f) "Non-Medical" Cannabis Businesses (whether dispensing, cultivation, or manufacturing or any other commercial cannabis activity other than medical cannabis), where legalized by State and local law; and

WHEREAS, as the County of Mendocino seeks to appropriately regulate cannabis facilities and seeks adequate funding to provide essential public services, all revenues received from the taxes imposed by Chapter 6.32 shall be deposited in the County's General Fund to be expended for general purposes; and

WHEREAS, on July 12, 2016, the Board of Supervisors of the County of Mendocino considered and approved to submit to the voters the Ordinance adding Chapter 6.32 establishing Cannabis Business License taxes; and

WHEREAS, the Board of Supervisors is considering using a majority of the revenue from the Cannabis Business License taxes for funding enforcement of marijuana regulations, enhanced mental health services, repair of county roads, and increased fire and emergency medical services, and deems it necessary to submit to the voters of the County whether the tax revenue should be used for such purposes.

NOW, THEREFORE, BE IT RESOLVED, that the Board of Supervisors of the County of Mendocino does hereby declare and order the proposed Ordinance, attached hereto as exhibit A and incorporated herein by this reference, to be submitted to a vote of the qualified electors of the County of Mendocino on the November 8, 2016, election, as follows:

1. There shall be included on the ballot to be marked by all Mendocino County voters, in addition to any other matters required by law, a ballot measure in substantially the following form:

Measure ____ (County Clerk to fill in the blank). Shall Chapter 6.32 be added to the Mendocino County Code, placing a business tax on cannabis cultivation and dispensaries (not to exceed 10% of gross receipts) and cannabis distribution, delivery, manufacturing, nurseries, testing laboratories and transportation businesses (\$2,500.00 per year, to be adjusted in accordance with Consumer Price Index increases) of medical and nonmedical cannabis where legalized by state law, potentially generating millions of dollars annually to help fund County services?	Yes	
	No	

A mark in the voting square after "YES" shall be counted in favor of the adoption of the proposed ordinance. A mark placed in the voting square after "NO" shall be counted against the adoption of the proposed ordinance.

2. There shall be included on the ballot to be marked by all Mendocino County voters, in addition to any other matters required by law, a ballot measure in substantially the following form:

Measure ____ (County Clerk to fill in the blank). Advisory Vote Only. If Mendocino County adopts business license taxes on cannabis businesses by the adoption of the measure adopting Chapter 6.32, Measure ____ (County Clerk to fill in the blank with the letter of the preceding measure), should the County use a majority of that revenue for funding enforcement of marijuana regulations, enhanced mental health services, repair of county roads, and increased fire and emergency medical services?	Yes	
	No	

A mark in the voting square after "YES" shall be counted in favor of spending a majority of the funds raised by the cannabis business license tax for funding enforcement of marijuana regulations, enhanced mental health services, repair of county roads, and increased fire and emergency medical services. A mark placed in the voting square after "NO" shall be counted against spending a majority of the funds raised by the cannabis business license tax for funding enforcement of marijuana regulations, enhanced mental health services, repair of county roads, and increased fire and emergency medical services.

3. The ballot to be used at the election shall be, both as to form and matter contained therein, such as may be required by law.

4. 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 this election.

5. The County Clerk shall fix and determine dates for submission of arguments for or against said proposed ordinance pursuant to the provisions of the Elections Code

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

7. In accordance with Elections Code section 9160, the County Clerk shall transmit a copy of the measure to the County Auditor and County Counsel.

8. In accordance with the provisions of the Elections Code of the State of California, County Counsel is directed to prepare an impartial analysis of the measure and the County Auditor is directed to prepare a fiscal impact statement.

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

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

11. Arguments for or against the measure may be submitted in conformity with Elections Code section 9161, *et seq.*

12. The Clerk of the Board and the Chief Executive Officer are hereby authorized and directed to take any and all actions necessary under law to prepare for and conduct the general election and appropriate all monies necessary for the Clerk of the Board, County Executive Officer and County Clerk to prepare and conduct the general election in a manner consistent with state and local laws.

The foregoing Resolution introduced by Supervisor McCowen, seconded by Supervisor Brown, and carried this 2nd day of August, 2016, by the following vote:

AYES: Supervisors Brown, McCowen, Woodhouse, Gjerde
NOES: None
ABSENT: Supervisor Hamburg

WHEREUPON, the Chair declared said Resolution adopted and SO ORDERED.

ATTEST: CARMEL J. ANGELO
Clerk of the Board

DAN GJERDE, Chair
Mendocino County Board of Supervisors

Deputy

I hereby certify that according to the provisions of Government Code section 25103, delivery of this document has been made.

APPROVED AS TO FORM:
KATHARINE L. ELLIOTT, County Counsel

BY: CARMEL J. ANGELO
Clerk of the Board

Deputy

Deputy