



Mendocino County

Legislation Text

File #: 16-849, Version: 2

To: Board of Supervisors

From: County Counsel

Meeting Date: August 2, 2016

Department Contact: Katharine L. Elliott
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Item Type: Regular Agenda

Time Allocated for Item: 30 min

Agenda Title:

Discussion and Possible Adoption of Resolution to Present to the Voters of the County (1) a Proposed Ordinance Adding Chapter 6.32 of Title 6 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; Second Reading and Adoption of an Ordinance Adding Chapter 6.32 to the Mendocino County Code Imposing a Cannabis Business Tax on Commercial Cannabis Businesses; and Appointment of an Ad Hoc Committee to Prepare Arguments in Favor of the Ordinance and Rebuttal Arguments to any Opposition

Recommended Action/Motion:

Adopt Resolution Presenting to the voters of the County (1) a Proposed Ordinance Adding Chapter 6.32 of Title 6 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, and authorize Chair to sign same; Conduct Second Reading and Adopt Ordinance adding Chapter 6.32 to Title 6 to the Mendocino County Code imposing a Cannabis Business Tax on commercial cannabis businesses, and authorize Chair to sign same; and Appoint an Ad Hoc Committee to Prepare Arguments in Favor of the Ordinance and Rebuttal Arguments to any Opposition.

Previous Board/Board Committee Actions:

On May 16, 2016, the Board of Supervisors received a presentation by Hdl Companies regarding a medical cannabis ballot initiative strategy which included various taxation options for Mendocino County. On June 20, 2016, the Board of Supervisors' General Government Standing Committee received a presentation on timelines and requirements to place a cannabis tax measure on the 2016 General Election ballot in November. The Standing Committee directed staff to bring forward a cannabis tax ordinance to the Board on July 12, 2016, for consideration. On July 19, 2016, the Board of Supervisors reviewed and heard testimony regarding the proposed business tax, made revisions and introduced and waived first reading of the Ordinance as revised.

Summary of Request:

The Medical Marijuana Regulation and Safety Act (MMRSA) was passed by the legislature and signed into law by the Governor in 2015, creating a regulatory framework for medical cannabis in California. MMRSA allows

for a County or City to pass tax measures around medical cannabis. A local tax on cannabis requires voter approval. Per Board direction, the Executive Office is bringing forward a proposed cannabis tax ordinance for the 2016 General Election ballot in November.

The proposed cannabis tax ordinance is a County general tax on commercial cannabis businesses in the unincorporated area of Mendocino County. Cannabis businesses include: cultivation, nursery, dispensaries, manufacturing, testing, transporting, distribution and delivery. The ordinance contains payment and reporting requirements and enforcement provisions and authorizes the County Treasurer-Tax Collector to administer the tax. The tax is for general governmental purposes and will go into effect only if the tax is approved by a majority of the voters voting on the tax at an election. Additionally the tax would only become effective when the Board of Supervisors adopts a permanent cannabis regulatory ordinance. The proposed ordinance would tax cultivation at a rate of 2.5% of gross receipts per fiscal year and dispensaries at a rate of 5.0% of gross receipts per fiscal year, both of which may be increased in increments of 2.5% following an approval by the Board of Supervisors at a regularly scheduled meeting of the Board, which increase could not occur more than once per fiscal year. The maximum rate of taxation for both cannabis cultivation and dispensaries would be 10%. In addition, cultivators would be required to pay a minimum amount of tax per growing cycle, as follows:

- a. Persons cultivating less than or equal to two thousand five hundred (2,500) square feet of cannabis shall pay a tax of no less than one thousand two hundred fifty dollars (\$1,250.00) per growing cycle.
- b. Persons cultivating two thousand five hundred one square feet and up to five thousand square feet of cannabis shall pay a tax of no less than two thousand five hundred dollars (\$2,500.00) per growing cycle.
- c. Persons cultivating more than five thousand one square feet of cannabis shall pay a tax of no less than five thousand dollars (\$5,000.00) per growing cycle.

The proposed ordinance would tax other cannabis businesses by a flat rate of \$2,500.00 per year, which would be adjusted by increases in the Consumer Products Index.

The deadline to provide items to the Registrar of Voters for placement on the November 2016 ballot is August 12, 2016. Second reading and adoption of the ordinance must occur at the August 2, 2016, meeting.

The proposed resolution calling for the election regarding the ordinance also calls for an election on a proposed advisory measure as to how the County should spend the funds generated by the cannabis business taxes, if the voters approve of the taxes. The advisory measure asks if the County should spend such funds for the following purposes: funding mental health services, maintenance and construction of county roads, and enforcing provisions of the Mendocino County Code, including ordinances relating to marijuana.

The Board of Supervisors may wish to appoint an ad hoc committee to prepare arguments in favor of the adoption of Chapter 6.32 and the cannabis business taxes. The committee would be authorized to prepare arguments in favor of the ordinance consistent with the requirements of Elections Code section 9162 and also prepare any rebuttal argument to any opposition argument, consistent with the requirements of Elections Code section 9167.

Alternative Action/Motion:

Decline to adopt resolution and not adopt ordinance, or provide alternative direction.

Supplemental Information Available Online at:

Fiscal Impact:

Source of Funding: N/A

Budgeted in Current F/Y: No

Current F/Y Cost: N/A

Annual Recurring Cost: N/A

Supervisory District: All

Vote Requirement: 4/5's

Agreement/Resolution/Ordinance Approved by County Counsel: Yes

CEO Liaison: Alan D. Flora, Assistant CEO

CEO Review:

Comments: