



**COUNTY OF SAN LUIS OBISPO  
BOARD OF SUPERVISORS  
AGENDA ITEM TRANSMITTAL**

(1) DEPARTMENT Auditor - Controller - Treasurer - Tax Collector		(2) MEETING DATE 1/23/2018	(3) CONTACT/PHONE Jim Erb 788-2964 Jim Hamilton 781-5043	
(4) SUBJECT Introduction of an ordinance amending Title 3 (Revenue and Finance) of the County Code to set an election to impose a general tax on commercial cannabis businesses. Item set for hearing on February 6, 2018. All Districts.				
(5) RECOMMENDED ACTION It is recommended that the Board: <ol style="list-style-type: none"> <li>1. Introduce the proposed amendment to Title 3 (Revenue and Finance) of the County Code to set an election to impose a general tax on commercial cannabis businesses.</li> <li>2. Direct the Clerk to set the item for public hearing and action on February 6, 2018.</li> <li>3. Authorize the Auditor-Controller-Treasurer-Tax Collector to prepare a notice to be published by the Clerk in a newspaper of general circulation in the County no later than January 31, 2018, which can act as an alternative publication pursuant to Government Code Section 25124(b)(1).</li> </ol>				
(6) FUNDING SOURCE(S) N/A	(7) CURRENT YEAR FINANCIAL IMPACT \$0.00	(8) ANNUAL FINANCIAL IMPACT \$0.00	(9) BUDGETED? No	
(10) AGENDA PLACEMENT <input checked="" type="checkbox"/> Consent <input type="checkbox"/> Presentation <input type="checkbox"/> Hearing (Time Est. _____) <input type="checkbox"/> Board Business (Time Est. _____)				
(11) EXECUTED DOCUMENTS <input type="checkbox"/> Resolutions <input type="checkbox"/> Contracts <input checked="" type="checkbox"/> Ordinances <input type="checkbox"/> N/A				
(12) OUTLINE AGREEMENT REQUISITION NUMBER (OAR) N/A		(13) BUDGET ADJUSTMENT REQUIRED? BAR ID Number: N/A <input type="checkbox"/> 4/5th's Vote Required <input checked="" type="checkbox"/> N/A		
(14) LOCATION MAP N/A	(15) BUSINESS IMPACT STATEMENT? No	(16) AGENDA ITEM HISTORY <input type="checkbox"/> N/A Date <u>1/9/2018</u>		
(17) ADMINISTRATIVE OFFICE REVIEW Nikki J. Schmidt				
(18) SUPERVISOR DISTRICT(S) All Districts				



## COUNTY OF SAN LUIS OBISPO

TO: Honorable Board of Supervisors

FROM: James P. Erb  
County Auditor - Controller - Treasurer - Tax Collector - Public Administrator

DATE: January 23, 2018

SUBJECT: Introduction of an ordinance amending Title 3 (Revenue and Finance) of the County Code to set an election to impose a general tax on commercial cannabis businesses. Item set for hearing on February 6, 2018. All Districts.

### **RECOMMENDATION**

It is recommended that the Board:

1. Introduce the proposed amendment to Title 3 (Revenue and Finance) of the County Code to set an election to impose a general tax on commercial cannabis businesses.
2. Direct the Clerk to set the item for public hearing and action on February 6, 2018.
3. Authorize the Auditor-Controller-Treasurer-Tax Collector to prepare a notice to be published by the Clerk in a newspaper of general circulation in the County no later than January 31, 2018, which can act as an alternative publication pursuant to Government Code Section 25124(b)(1).

### **SUMMARY**

The Auditor-Controller-Treasurer-Tax Collector's Office (ACTTC) is submitting updates and amendments to Title 3 (Revenue and Finance) of the County Code for the Board's approval to set an election to impose a general tax on commercial cannabis businesses. If approved, the ACTTC will work with the County Clerk-Recorder to place the CRB tax measure on the June 5, 2018 ballot for a vote of the public. If approved by a majority of voters, the tax would take effect on July 1, 2018.

### **BACKGROUND**

On November 27, 2017, your Board finalized the regulation and licensing of CRBs in the unincorporated areas of San Luis Obispo County. Prior Board direction instructed staff to attempt to mitigate known and unknown impacts of cannabis through fee cost recovery and a voter-approved tax on cannabis sales and/or businesses.

On January 9, 2018, your Board gave direction to staff to move forward with an ordinance to place a CRB tax measure on the ballot. Per Board direction, the key provisions of the proposed CRB tax are:

- A general tax where tax revenue becomes part of the County's General Fund, to allow your Board the flexibility to mitigate impacts of legalized cannabis in San Luis Obispo County as they become known.
- A tax based on gross receipts of CRBs in order to assess taxes as these businesses realize revenue.
- A tax rate starting at 4% of gross receipts up to a maximum of 10%.
- Automatic increases each fiscal year in 2% increments up to the 10% maximum beginning July 1, 2020, unless your Board acts by a 3/5ths vote to maintain the current tax rate.
- The ability for your Board to lower the tax rate by a 3/5ths vote.

### **DISCUSSION**

In consideration of Board direction, public and industry feedback, and the experiences of other jurisdictions, the ACTTC is proposing a CRB taxation ballot measure be submitted to the voters, as described above.

In order to move forward with this proposal, the ACTTC recommends that your Board introduce the proposed amendments to Title 3 and direct the Clerk to set the item for public hearing and action on February 6, 2018.

In order to place the item on the June 5, 2018 ballot, Board action must be completed on or before March 9, 2018.

### **OTHER CONSIDERATIONS**

Any County tax measure approved by the voters would be *in addition* to State of California taxation measures already in effect. Relevant State provisions are as follows:

1. Dry Weight Tax: \$9.25 for every ounce of cannabis flower and \$2.75 for every ounce of cannabis leaf. As the price of cannabis drops, a fixed amount represents a higher percentage of taxation per sales transaction. For example, if an ounce of flower sells for \$200 the \$9.25 tax results in a 4.63% tax. If, or maybe when, the price of an ounce of flower drops to \$100 an ounce, the same dry weight charge of \$9.25 is now a 9.25% tax.
2. 15% Excise Tax: 15% tax on all other cannabis activities. This is in addition to existing retail sales taxes.
3. The State of California makes no distinction between commercial recreational or medical cannabis
4. The end consumer can avoid state and local sales tax if they possess a State issued Medical Marijuana Card. None of the other taxes are waived.
5. Proposition 64 also established the ability for local governments (counties and cities) to establish their own criteria for allowing commercial cannabis businesses and the ability to establish local tax rates if approved by the voters.

### **ALTERNATIVE PUBLICATION OF AMENDMENT**

The California Government Code, Section 25124(b)(1), establishes specific publication requirements for ordinance amendments. Your Board can authorize publication of a summary of the proposed ordinance amendment be

published in a newspaper of general circulation in the County at least five days prior to the public hearing and within 15 days following action on the amendment.

The approval of the alternative publication, i.e., a summary instead of the full text, would be less costly than publishing the full text of the proposed ordinance amendment and is probably more likely to be read by the public. The full text is available to anyone would like additional reading material concerning this amendment at the County Clerk-Recorder's Office.

### **OTHER AGENCY INVOLVEMENT**

The ACTTC worked with the County Administrative Office and County Counsel in proposing the terms of a cannabis tax. The ACTTC has also worked with the Clerk-Recorder to determine the logistics of placing a taxation measure on the June 2018 ballot. The ACTTC has also worked with SCI Consulting Group, under an existing Board contract, to study best practices in taxation. County Counsel has reviewed and approved the proposed amendments for form and legal effect.

### **NEXT STEPS**

If approved by your Board, the Clerk will set the item for public hearing and action on February 6, 2018.

If your Board approves the amendments to County Code on February 6, 2018, the ACTTC will work with the Clerk-Recorder to place the Measure on the June 5, 2018 ballot.

### **FINANCIAL CONSIDERATIONS**

Voter approval of a cannabis tax is expected to create additional revenue depending on the number of businesses licensed. The proposed cannabis tax is intended to help offset the costs of legalized cannabis in San Luis Obispo County without creating a negative impact to the County General Fund.

### **RESULTS**

The result of this Board action will be to introduce an amendment to Title 3 (Revenue and Finance) of the County Code, and set the item for Public Hearing on February 6, 2018. The purpose of the amendment is to place a CRB tax measure on the June 5, 2018 ballot for a vote by the public.

### **ATTACHMENTS**

1. Proposed Ordinance Amending Title 3
2. Alternative Publication