

**COUNTY OF SAN DIEGO
BOARD OF SUPERVISORS
TUESDAY, APRIL 04, 2023**

MINUTE ORDER NO. 20

**SUBJECT: ADMINISTRATIVE ITEM:
SECOND CONSIDERATION AND ADOPTION OF ORDINANCE:
CONSIDERATION AND ADOPTION OF AN ORDINANCE TO SET RATES
FOR THE VOTER APPROVED CANNABIS BUSINESS TAX (3/14/2023 - First
Reading; 4/4/2023 - Second Reading unless ordinance is modified on Second
Reading) (DISTRICTS: ALL)**

OVERVIEW

On March 14, 2023 (11), the Board of Supervisors took action to further consider and adopt the Ordinance on April 4, 2023.

On January 27, 2021 (4), the Board of Supervisors (Board) directed the Chief Administrative Officer (CAO) to explore the implementation of a commercial cannabis ordinance, regulations, and programs with a social equity component for the unincorporated area, including the development and implementation of a commercial cannabis taxation program. Relating to the commercial cannabis taxation program, County of San Diego (County) staff returned to the Board on May 10, 2022 (20), with a draft cannabis business tax ordinance and fiscal revenue analysis developed in conjunction with HdL Companies (HdL), the County's cannabis taxation program consultant.

Then, on June 14, 2022 (21), and June 28, 2022 (27), the Board took various actions necessary to place the cannabis business tax measure on the ballot for voter consideration during the consolidated general election on November 8, 2022. In addition to taking these actions, the Board directed the CAO to return to the Board to establish the actual tax rates should the measure be approved by the voters.

The Registrar of Voters certified the November 8, 2022, consolidated general election on December 8, 2022. The County's Cannabis Business Tax (Measure A) required a majority vote (50% plus one) to pass. Measure A passed with a final result of 57.45% of voters voting in favor of the measure.

On January 24, 2023 (16), the Board considered staff's recommended initial rates and directed certain changes. Today's action submits a revised version of the ordinance to the Board. Staff recommends the Board approve the introduction of such ordinance (first reading) today. If the Board approves this action, staff recommends the Board adopt the ordinance on April 4, 2023 (second reading). If the proposed ordinance is amended by motion of the Board at the second reading, an additional meeting date will need to be selected for the ordinance's adoption. In addition to changes directed by the Board, the submitted ordinance reflects an effective date of the Cannabis Business Tax to align with the beginning of a fiscal quarter soonest after the operative date of an approved and adopted ordinance (July 1, 2023).

RECOMMENDATION(S)
CHIEF ADMINISTRATIVE OFFICER

Consider and adopt the Ordinance (second reading) entitled:
AN ORDINANCE AMENDING THE SAN DIEGO COUNTY CODE OF REGULATORY ORDINANCES, TITLE 2, DIVISION 2, CHAPTER 4, RELATING TO SETTING INITIAL RATES FOR THE CANNABIS BUSINESS TAX.

EQUITY IMPACT STATEMENT

A disproportionate number of Black, Indigenous, and People of Color (BIPOC) individuals remain incarcerated for the past criminalization of cannabis. As cannabis is legalized and permitted in the unincorporated area of San Diego County, the Board saw the need to create a Socially Equitable Cannabis Program to help guide the County’s approach to this new potential revenue. On January 27, 2021 (4), the Board directed the CAO to develop a Socially Equitable Cannabis Program (Program) to include Zoning Ordinance and Regulatory Code amendments that allow for a variety of commercial cannabis uses, and a Social Equity Program to prioritize equity, access, and business opportunities to help rectify the injustices caused by the War on Drugs.

Specific to a cannabis taxation program, County staff and consultants engaged in three community outreach sessions where information was made available about cannabis history, market demand for cannabis, revenue generating strategies, future trends in cannabis, general tax ordinance structure and rates, and cannabis tax issues. Participants were given the opportunity to ask questions and provide comments about the topics discussed. Social equity considerations were a common theme in the feedback received, with comments including concerns that too high or too many taxes could be cost prohibitive for social equity businesses, suggestions to invest future tax revenues into social equity businesses or communities most impacted by the past criminalization of cannabis, and a sentiment that addressing historic and current inequities, not generating revenue, should guide the development of the tax ordinance.

The Office of Equity and Racial Justice (OERJ) will bring forward additional items to the Board relating to the Socially Equitable Cannabis Program at a later date.

SUSTAINABILITY IMPACT STATEMENT

The Cannabis Business Tax was approved by the voters on November 8, 2022. Elections are the cornerstone of public participation in governmental decision making, which aligns with Goals #1 and #2 of the County of San Diego Sustainability Goals. Goal #1 is to engage the community in meaningful ways - today’s action is the culmination of many months of community engagement and public hearings related to the Cannabis Business Tax and is itself another opportunity for the community to participate in the decision-making process. Goal #2 is to provide just and equitable access to County services, policy decision-making, and resource allocation in support of sustainable communities. Sustainability includes four lenses (Social, Economic, Environmental, and Health & Wellbeing). The Cannabis Business Tax, being a general tax for the purpose of funding general governmental activities, can directly impact each of these areas of sustainability as funding is generated and allocated through the regular Operational Plan process.

FISCAL IMPACT

Funds for this request are partially included in the Fiscal Year 2022-23 Operational Plan in the Treasurer - Tax Collector and Auditor & Controller departments. Additional costs will be incurred to administer the cannabis tax, including a net General Fund cost of \$323,311 and 2.50 additional staff years. In addition, the Chief Administrative Officer, Land Use and Environment Group and the Office of Equity and Racial Justice are working to identify staff resources needed for the establishment of an office that provides management and administration of activities leading towards the development and implementation of the County's Socially Equitable Cannabis Program. It is anticipated that specific recommendations and fiscal impacts will be presented to the Board during the budget process.

The rates that are within this ordinance, as amended by the Board on January 24, 2023 (16), would result in an estimated future annual revenue of \$1,830,000. This revenue projection depends on a variety of factors, including an increased concentration of retailers, market influences on the price of cannabis products as well as future policy and land use decisions by the Board, and it should not be assumed that these revenues will materialize within the first several years of the effective date of the tax rates.

Using the current market as a basis, the initial revenue that may be generated through this action in Fiscal Year 2023-24 is approximately \$140,625. As the Cannabis Business Tax is a general tax, all tax proceeds will be placed into the General Fund for use at the discretion of the Board of Supervisors during the annual Operational Plan process.

BUSINESS IMPACT STATEMENT

As of October 2021, the Board adopted ordinance amendments to allow the five existing cannabis dispensaries that were in operation in the unincorporated area prior to the County's 2017 prohibition on new medical facilities to continue operations and sell commercial medicinal and adult-use cannabis. Currently, no new dispensaries or other cannabis operations are permitted under the existing ordinances. The Land Use and Environment Group (LUEG) will bring forward additional items to the Board that would allow additional cannabis operations in the unincorporated area at a later date.

Cannabis businesses support a wide variety of other businesses that are not a part of the cannabis supply chain. Cultivators support garden supply stores, greenhouse manufacturers, irrigation suppliers, soil manufacturers, and a wide variety of contractors, including building and construction, lighting and electrical, HVAC, permitting, and engineering. Manufacturers support many of these same businesses, plus specialized tooling and equipment manufacturers, and product suppliers for hardware, packaging, and labeling. All these businesses support, and are supported by, a host of ancillary businesses, such as bookkeepers, accountants, tax preparers, parcel services, marketing and advertising agencies, personnel services, attorneys, mechanics, facilities maintenance, security services, and others. The cannabis business entrepreneur profits and the salaries paid to employees will move into the local economy, support stores, restaurants, car dealerships, contractors, home sales, and other businesses.

ACTION:

ON MOTION of Supervisor Anderson, seconded by Supervisor Desmond, the Board of Supervisors took action as recommended, on Consent, adopting Ordinance No. 10838 (N.S.), entitled: AN ORDINANCE AMENDING THE SAN DIEGO COUNTY CODE OF REGULATORY ORDINANCES, TITLE 2, DIVISION 2, CHAPTER 4, RELATING TO SETTING INITIAL RATES FOR THE CANNABIS BUSINESS TAX.

AYES: Vargas, Anderson, Lawson-Remer

NOES: Desmond

ABSENT: Fletcher

State of California)
County of San Diego) §

I hereby certify that the foregoing is a full, true and correct copy of the Original entered in the Minutes of the Board of Supervisors.

ANDREW POTTER
Clerk of the Board of Supervisors



Signed
by Andrew Potter