



Legislation Text

File #: 14-0022, **Version:** 1

Recommendation to adopt resolution Version A or Version B regarding a proposed ballot measure to be placed on the April 8, 2014 ballot for the purpose of submitting to the voters of the City of Long Beach an ordinance amending Chapter 3.80 of the Long Beach Municipal Code, relating to Marijuana Business License General tax; and request the Office of the Mayor to designate persons, or associations of persons, to write arguments either for or against or both for and against the adoption of the measure placed on the ballot. (Citywide)

On December 17, 2013, the City Council requested this Office to prepare the documents necessary to place a proposed measure on the April 8, 2014 ballot to tax medical marijuana businesses in the City of Long Beach. At the December 17, 2013 Council meeting, the City Council requested that the proposed ordinance include options from which the Council could choose.

This Office therefore prepared and now transmits the ballot resolution, to which are attached two alternative ballot ordinances: Version A, which presents a tax rate of 6% (\$60 per \$1000 of gross receipts), with an annual CPI adjustment; or Version B, which presents a tax rate not to exceed 10% (\$100 per \$1000 of gross receipts), with an initial rate of 6%, with an annual CPI adjustment.

Taxation Rate

Voter approval is required for all new or increased taxes, under Proposition 218. The adoption of a "general" tax must usually be considered on a ballot where one or more of the local legislators is up for election or reelection. A general tax must be adopted by a simple majority of voters, and revenue obtained from such a tax belongs to the City's general fund. A "special" tax, by contrast, must be approved by a two-thirds majority of voters and may be earmarked for a special purpose fund. Both of the options here are for a general tax.

Amendment to LBMC Chapter 3.80

The proposed amendment would impose a tax on gross receipts earned by a medical marijuana business.

Version A

The proposed measure in Version A fixes the tax rate on marijuana businesses at 6% (or \$60 per \$1000 of gross receipts), with an annual CPI adjustment. This approach is similar to Proposition B, approved by the voters in 2010 for "recreational" marijuana.

Version B

The proposed measure in Version B would allow the City Council some flexibility to impose a tax at the maximum rate of 10% of gross receipts. State law requires that any increase, extension or

expansion of a tax requires voter approval; however, the reduction of a tax does not. Therefore, if a majority of voters approves the marijuana business tax at the rate of 10% of gross receipts, the City Council could set a lower initial rate - at 6%, for example - and later raise it by ordinance, as long as it does not exceed the 10% limit.

Gross Receipts

State law prohibits cities from charging certain types of nonprofit organizations a business tax or fee based on gross receipts or income. Although all businesses are currently required by the CUA and the MMPA to be "not for profit," these businesses are not necessarily "non-profits" as defined by the State Constitution, the LBMC and the IRS. Therefore, a tax rate per square foot for those religious and charitable nonprofits has been developed. A minimum \$1,000 charge will be applied to all marijuana businesses. If gross receipts or square footage charges exceed \$1,000, then the higher amount will be due.

Other cities impose taxes on medical marijuana businesses within a range of between 2.5% per \$1000 of gross receipts and 15% per \$1000 of gross receipts. The City of Los Angeles uses a rate of 6%. Oakland initially imposed a rate of 5%, while Berkeley initially imposed a rate of 2.5%. San Jose imposed a tax at a rate not to exceed 10%, with an initial rate of 7%. Long Beach in 2010 approved in Proposition B a 15% tax rate for recreational medical marijuana businesses. (While Proposition B was approved in Long Beach, it was dependent on the enactment of California State Proposition 19, which was not approved by statewide voters.) The City's current business license taxing structure is adjusted annually by the Consumer Price Index (CPI) for the Los Angeles-Riverside-Orange County area.

Payments based on gross receipts are generally determined by an annual audit. Because of the element of self-reporting involved, gross receipts taxes frequently require verification and follow-up.

Operative Date

The proposed amendment, if approved by voters, would not take effect until a regulatory ordinance pursuant to LBMC Chapter 21 is approved the City Council.

Administrative Fees

Administrative fees reflecting the City's costs, including the full cost of enforcement, will be developed along with the regulatory ordinance.

Approve recommendation.

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF LONG BEACH PROVIDING THAT A BALLOT MEASURE MAY BE SUBMITTED TO THE QUALIFIED VOTERS OF THE CITY OF LONG BEACH AT THE APRIL 8, 2014 CITYWIDE ELECTION ESTABLISHING A MARIJUANA BUSINESS TAX

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