



Legislation Text

File #: 10-0749, **Version:** 1

Recommendation to receive information and consider a proposal for a business license tax on medical marijuana collectives and other marijuana businesses; and set a date for a public hearing for Tuesday, August 3, 2010 at 5:00 p.m., to approve the placement of a ballot measure on the November 2010 General Election. (Citywide)

The City of Long Beach faces an \$18.5 million General Fund deficit in FY 11, with projected deficits in FY 12 and FY 13 as well. The significant impacts of the global economic meltdown, coupled with rising compensation and pension costs will challenge the City's ability to continue providing essential core services such as police, fire, parks and recreation, library, public works and infrastructure improvement services to its residents.

On March 23, 2010, City management proposed a five-pronged approach to balance the City's budget in FY 11. A critical component of this five-pronged approach is the creation of new revenue. In researching initiatives that could increase the City's revenues, it was discovered that three major California cities, Sacramento, Berkeley and Oakland, are all bringing forward ballot measures to initiate, increase or expand their business license taxes with respect to medical marijuana establishments. A critical reason for these proposed measures is the State ballot initiative that might legalize recreational marijuana in the State of California. Those cities poised to take advantage of the resulting changes through their local taxing authority powers will realize critical revenues at a time when they are most needed.

The City's local taxing authority related to businesses is the Business License Tax. The City currently applies a base tax and a tax per employee on businesses operating in the City, which is differentiated based on the business classification. The City also has a gross receipts tax for vending operations, a square foot rate for commercial space, as well as other various taxing systems based on unique business classifications such as apartment buildings.

When the City's Business License Tax Ordinance was created, medical marijuana collectives did not exist in Long Beach. With the passage of the City's Medical Marijuana ordinance on May 2, 2010, now is the time to consider a business license tax for these establishments. Currently, medical marijuana collectives operate in business corridors alongside businesses that pay business license taxes. To promote equity, it is recommended that medical marijuana collectives are also assessed a business license tax.

In addition, Proposition 19, the ballot initiative to legalize marijuana, if passed, could result in the establishment of marijuana businesses for recreational or non-medical purposes. It allows people, 21 years old or older, to possess, cultivate or transport marijuana for personal use.

As such, staff is recommending a business license tax on medical marijuana collectives and any other marijuana related businesses that may come about as a result of the potential legalization of marijuana in the State of California. Sacramento, Berkeley and Oakland are all proposing gross

receipts taxes; however, ballot measures in these three cities are still in the discussion stages, hence the final determination of the amount of the tax is still under consideration. Sacramento is proposing a tiered tax - one for medical marijuana collectives (5 percent) and one for businesses that may arise from the legalization of marijuana (5 to 10 percent). Implementing a gross receipts tax would allow the City to align itself with other cities that have also permitted medical marijuana collectives.

Requirement for Voter Approval

Proposition 218 requires all local governments, including charter cities, to obtain majority voter approval for new or increased taxes. The adoption of a "general tax" must generally be considered on a ballot where one or more of the local legislators is up for election or reelection. The exception to this general rule is the situation where the local elected body declares a "fiscal emergency." As such, a fiscal emergency would need to be declared to add this measure to the November 2010 ballot.

Proposed Business License Tax Rate

In determining the gross receipts tax that should be charged on marijuana, staff evaluated the City's existing taxes and other cities' current or proposed tax rates. Combining the best aspects of each, the resulting proposal is a 5 percent gross receipts tax on medical marijuana collectives; a five to ten percent gross receipts tax on other marijuana businesses; and, a square footage tax on exclusive marijuana cultivation sites of .0075 cents per square foot based on the City's existing commercial tax structure.

This matter was reviewed by Assistant City Attorney Michael J. Mais and Budget and Performance Management Bureau Manager David Wodynski on July 1, 2010.

Since a proposed change in the City's business license tax would require voter approval, City Council action on July 6, 2010 is needed to schedule a hearing for August 3, 2010 and place a measure on the November 2010 General Election ballot.

A strong and healthy business community contributes substantially to the City's General Fund resulting in approximately \$11 million in business license tax revenue annually. Since medical marijuana collectives have not yet been permitted, precise revenue estimates are not available; however, cities that have introduced business license taxes for medical marijuana collectives have projected considerable revenue increases. For example, the City of Oakland's experience can provide some information regarding changes to their business license tax revenue stream based on changes to their gross receipts tax rate. In 2008, their original tax rate of \$1.20 per \$1,000 of gross receipts produced \$23,608 on gross receipts of \$19,673,000. At the time of the introduction of their July 21, 2009 successful ballot measure that raised the tax rate to \$18.00 per \$1,000, the revenue from the tax measure was estimated to generate an additional \$294,000 annually. Based on recent gross receipts information, Oakland now anticipates a total of \$1 million in tax proceeds in the first year from the four medical marijuana dispensaries with permits in Oakland. Please note that the City of Oakland has only allowed four dispensaries within the City, although they are currently considering increasing the current cap to six.

In contrast, it is anticipated that the City of Long Beach may eventually provide permits to approximately 30 collectives throughout the City. Hence, the amount of revenue generated from this

proposal would be significant. With an \$18.5 million projected deficit for FY 11 and deficits projects in FY 12 and FY 13, staff has been directed to seek additional revenue opportunities wherever possible. This proposal generates additional revenue, ensures that marijuana businesses are also subject to business license taxes and is consistent with measures being proposed in other cities.

Lastly, one of the main benefits to the City of a business license tax is that, unlike other taxes (e.g., property taxes and sales taxes), the City will receive 100 percent of the tax revenue. Business license taxes accrue entirely to the City without any dilution for a state or county share; hence, 100 percent of the tax proceeds would benefit the General Fund and the critical services it supports.

If other City measures are on the November 2010 General Election ballot, the additional cost for the Marijuana Business License Tax measure would be approximately \$15,000. The Adopted FY 11 Budget for the City Clerk's Department will include this cost, if approved by the City Council.

Approve recommendation.

LORI ANN FARRELL
DIRECTOR OF FINANCIAL MANAGEMENT/CFO

APPROVED:

PATRICK H. WEST
CITY MANAGER