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CITY ATTORNEY

REPORT NO. R 18 - 0 2 0 1  
JUN 15 2018

**REPORT RE:**

**BALLOT RESOLUTIONS REGARDING PROPOSED SPECIAL TAX PROPOSITION  
ON VARIOUS CANNABIS-RELATED ACTIVITIES, AND ORDINANCE CALLING A  
SPECIAL ELECTION FOR THE PROPOSITION ON NOVEMBER 6, 2018**

The Honorable City Council  
of the City of Los Angeles  
Room 395, City Hall  
200 North Spring Street  
Los Angeles, California 90012

Honorable Members:

On June 5, 2018, your Honorable Body requested this Office to prepare the documents necessary for a proposed ballot measure imposing special taxes and surcharges on various cannabis-related activities. This Office hereby transmits, approved as to form and legality, the enclosed ballot resolutions and election ordinance necessary to place a special tax proposition on the ballot for the November 6, 2018 State General Election. This special tax requires two-thirds voter approval to become effective.

Background

On March 7, 2017, the voters adopted Proposition M, an ordinance placed on the ballot by the City Council to enact a comprehensive regulatory, enforcement and taxation system for cannabis-related activity in the City of Los Angeles. The tax provisions of Proposition M included a new gross receipts tax regime of various rates on those who engage in the commercialization of medical and nonmedical cannabis. The taxes authorized in Proposition M were general taxes; proceeds from general taxes are placed in the General Fund and used to fund general municipal purposes throughout the City.

On May 23, 2018, the Rules, Elections, and Intergovernmental Relations Committee (REIR Committee) adopted a set of recommendations for a ballot proposition authorizing additional special taxes on various cannabis related activities to fund specific programs and projects. The REIR Committee also recommended a temporary reduction in many of the general gross receipts taxes authorized under Proposition M to go into effect only if the new special taxes were approved by the voters. On June 5, 2018, the City Council discussed the matter and adopted an amended set of recommendations for the special tax proposition (Recommendations), as well as a temporary reduction in Proposition M's general taxes should the new special tax proposition pass.

The Recommendations proposed four new taxes and surcharges: 1) a 1% special gross receipts tax on all commercial cannabis activity; 2) a 1% special gross receipts tax on licensed cannabis event organizers and registered cannabis management companies; 3) a \$5 special surcharge on any test of cannabis products by a licensed commercial cannabis testing laboratory; and 4) a \$5 special surcharge on any ticket sold for a temporary cannabis event.

The Recommendations also specified the purposes for which the proceeds from each of these new taxes must be allocated and spent. These purposes, further detailed below, include: public improvements, child and youth programs and City parks, libraries and recreation centers near licensed cannabis businesses; public education and outreach, equity programs, expungement clinics, illegal enforcement and other cannabis-related programming; cannabis youth prevention and child strengthening programs, including youth/child development activities for ages 0 to 24; and science technology, math and engineering (STEM) education programs. The Recommendations also include other related spending restrictions and procedural requirements.

The Recommendations requested our Office to consult with the Department of Cannabis Regulations (DCR), City Administrative Officer (CAO), Office of Finance and the Chair of the REIR Committee to draft and finalize the language for the special tax proposition. The enclosed draft ballot resolutions and election ordinance for the special tax proposition are a result of those consultations.

#### Summary of the Special Tax Proposition

The special tax proposition would amend the Los Angeles Municipal Code (LAMC) to authorize four new taxes on various cannabis related activity in the City. The proposition also would amend the Los Angeles Administrative Code (LAAC) to create a new Cannabis Reinvestment Trust Fund (CRTF) into which the proceeds from the special taxes are deposited and to specify the purposes for which the tax proceeds may be allocated and used. These new taxes would be in addition to the general gross receipts taxes of Proposition M. The new taxes and their special purposes, as well as other elements of the proposition, are summarized here.

1. 1% Special Gross Receipts Tax on Commercial Cannabis Activity

The special tax proposition would authorize a business tax of \$10 for each \$1,000 of gross receipts from all commercial cannabis activity in the City ("Special Cannabis Gross Receipts Tax"). This new 1% gross receipts tax would apply to every person already subject to the general gross receipts taxes of Proposition M – *i.e.*, every person with a license that is engaged in the business of selling, transporting, testing, researching, manufacturing or cultivating, or otherwise commercializing cannabis and/or cannabis products and every person with a license that is engaged in the business of selling medical cannabis. (See proposed new LAMC Sections 21.51.1 & 21.52.1.)

Proceeds from this Special Cannabis Gross Receipts Tax would be allocated for three different sets of purposes. First, 50% of the proceeds would be allocated to each City Council District in proportion to the number of licensed cannabis businesses within each District and dedicated for the following purposes:

- public improvements within a one-mile radius of any licensed cannabis business;
- child or youth programs, which include youth or child development activities for those between the ages of 0 and 24, conducted within a one-mile radius of any licensed cannabis business; and
- public improvements and programs at the City park, library or recreation center closest to a licensed cannabis business.

Neighborhood Councils would be afforded the opportunity to submit recommendations to the Council regarding use of these funds. The one-mile proximity requirement would not apply to funds unused after five years. (See proposed new LAAC Section 5.589.)

Second, 25% of the proceeds from the Special Cannabis Gross Receipts Tax would be dedicated for the following purposes: public education and outreach related to licensing and regulation of commercial cannabis activity in the City; public education and outreach related to the DCR's social equity program; organizing and conducting expungement clinics for individuals eligible to have cannabis-related convictions dismissed and sealed pursuant to state law; enforcement actions against unlicensed commercial cannabis activity; and other cannabis-related programs. (See proposed new LAAC Section 5.590.)

Third, 25% of the proceeds from the Special Cannabis Gross Receipts Tax would be dedicated for cannabis youth prevention and child strengthening programs, which include youth or child development activities for those between the ages of 0 and 24. The administration of the programs, including guidelines and procedures, shall be established later by ordinance. (See proposed new LAAC Section 5.591(a).)

2. 1% Special Gross Receipts Tax on Cannabis Event Organizers and Management Companies

The special tax proposition would authorize a business tax of \$10 for each \$1,000 of gross receipts from every licensed cannabis event organizer and registered cannabis management company ("Special Cannabis Event Organizer and Management Company Tax"). This new 1% gross receipts tax applies to every person who holds a license pursuant to the City's cannabis regulations to organize temporary cannabis events in the City and to every person required to register as a management company with the DCR under the City's cannabis regulations. (See proposed new LAMC Section 21.51.2.)

Proceeds from the Special Cannabis Event Organizer and Management Company Tax would be dedicated for the following purposes: public education and outreach related to licensing and regulation of commercial cannabis activity in the City; public education and outreach related to the DCR's social equity program; organizing and conducting expungement clinics for individuals eligible to have cannabis-related convictions dismissed and sealed pursuant to state law; enforcement actions against unlicensed commercial cannabis activity; and other cannabis-related programs. (See proposed new LAAC Section 5.590.)

3. \$5 Surcharge on Tests of Cannabis Products

The special tax proposition would authorize a \$5 surcharge on each certificate issued by a testing laboratory for the testing of cannabis and/or cannabis products ("Special Cannabis Testing Tax"). (See proposed new LAMC Sections 21.18.1 through 21.18.12.) This surcharge amounts to a special tax under the State Constitution's taxing provisions. (See Cal. Const., Art XIII C.)

Proceeds from the Special Cannabis Testing Tax would be dedicated for science, technology, engineering and math education programs in the City. The administration of the programs, including guidelines and procedures, shall be established later by ordinance. (See proposed new LAAC Section 5.591(b).)

4. \$5 Surcharge on Tickets Sold to Temporary Cannabis Events

The special tax proposition would authorize a \$5 surcharge on each ticket sold for a temporary cannabis event ("Special Cannabis Event Admission Tax"). Temporary cannabis events are defined to include events held on premises within the City of Los Angeles at which cannabis and/or cannabis products are sold and/or consumed under a temporary cannabis event license granted pursuant to the City's cannabis regulations. (See proposed new LAMC Sections 21.19.1 through 21.19.12.) This surcharge amounts to a special tax under the State Constitution's taxing provisions. (See Cal. Const., Art XIII C.)

Proceeds from the Special Cannabis Event Admission Tax would be dedicated for the following purposes: public education and outreach related to licensing and regulation of commercial cannabis activity in the City; public education and outreach related to the DCR's social equity program; organizing and conducting expungement clinics for individuals eligible to have cannabis-related convictions dismissed and sealed pursuant to state law; enforcement actions against unlicensed commercial cannabis activity; and other cannabis-related programs. (See proposed new LAAC Section 5.590.)

#### 5. Other Provisions

The special tax proposition also includes several other requirements and restrictions. The proposition provides that tax proceeds would be deposited in the CRTF and appropriations from that Fund shall be made by the City Council and Mayor for the purposes authorized in the proposition. (See proposed new LAAC Section 5.588(b).) The proposition includes a maintenance of effort clause stating that tax proceeds shall not be used to supplant funding from existing sources currently allocated by the City for the purposes set forth in the proposition. (See proposed new LAAC Section 5.588(d).) The proposition also provides that tax proceeds may not be used to process applications for licenses of commercial cannabis activity, or to monitor a licensee's compliance with City law or enforce against a licensee for violating City law. (See proposed new LAAC Section 5.590(d).)

The proposition requires licensed businesses to submit a cannabis corporate responsibility report annually to the DCR describing its community engagement, corporate philanthropy, neighborhood relations, and legal compliance efforts. (See proposed new LAMC Section 104.21.)

Finally, in response to your request for an ordinance to temporarily reduce Proposition M's general taxes if the voters adopt these new special taxes, we are transmitting a separate ordinance that would reduce those general taxes as requested. That ordinance reducing tax rates does not require voter approval.

#### Rule 38 Referral

Pursuant to Council Rule 38, and consistent with the directions in Council's Motion, the provisions of the proposed tax proposition were sent to the DCR, CAO, and Office of Finance. This Office has worked with staff of these offices, and their input has been incorporated.

#### Election Requirements

The proposition authorizes special taxes and therefore must be approved by two-thirds of the voters of the City in order to become effective. (See Cal. Const., Art XIII C, Section 2(d).) The Constitution's voter-approval requirement applies to any attempt to

impose, increase or extend a new tax or change the purposes for which the tax is levied. The Council may make other amendments to the proposition by ordinance without a vote of the electorate, and the proposition contains an amendment clause to that effect.

The ballot resolutions and election ordinance include a ballot title and question for the special tax proposition. The ballot title must comply with City and State law regarding its form, content, length, and impartiality. Please note that the ballot title and question must include an estimate of the annual revenues expected from the new taxes. We have left that figure blank in this draft, as we are awaiting information from other City departments regarding that estimate.

City Election Code Section 601 requires that final resolutions and ordinances to place a measure on the ballot be adopted no less than 110 days before the election. With regard to the November 6, 2018, State General Election, and in light of Council's upcoming recess, the last date for Council to take action to place a measure on the ballot is July 2, 2018.

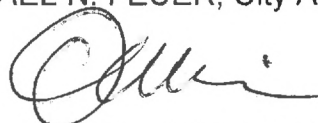
The State General Election is conducted locally by the County Registrar-Recorder. In order to place a City measure on the State General Election ballot, the City must request the County Board of Supervisors to approve consolidation of the City's ballot measure election with the State General Election. The Board of Supervisors has the limited discretion to deny the City's consolidation request if the County's voting equipment or other election capacities are such that the County cannot handle the City's election.

If you have any questions regarding this matter, please contact Deputy City Attorney Harit Trivedi at (213) 978-7193. A member of this Office will be present when you consider this matter to answer questions you may have.

Sincerely,

MICHAEL N. FEUER, City Attorney

By



DAVID MICHAELSON  
Chief Assistant City Attorney

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Transmittals