

Many Unknowns On Local Ramifications Of Proposition 19

City Officials Encourage Voters To Pass Measure B Just In Case



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City officials are pushing for the passage of a local ballot measure that would tax the sale of recreational marijuana despite being unsure of how much potential revenue it might generate for the city.

The Long Beach City Council approved a measure to be placed on the November 2 ballot that would amend the municipal code and establish a new business license category for marijuana businesses operating in Long Beach. The initiative, Measure B, would allow the city to impose a 15 percent tax on gross sales receipts on this new category of businesses.

Measure B is contingent on the passage of Proposition 19, the Regulate, Control and Tax Marijuana Act, which would legal-

ize the recreational use of marijuana for adults age 21 and older and restrict the plant similarly to alcohol. The tax would adjust annually for inflation using the consumer price index for the Los Angeles/Riverside/Orange County area.

Measure B also includes a tax of \$25 per square foot on all grow sites, whether the cultivation occurs at the marijuana business or offsite.

Although there are few recreational marijuana businesses operating as a state-exempt nonprofit, according to Assistant City Attorney Michael Mais, the measure would also impose a \$10 per square foot charge on such operations instead of paying a percentage of gross receipts.

The minimum tax for all marijuana businesses would be \$1,000, and all potential revenues would transfer into the city's

General Fund to support public safety, libraries, parks, recreation programs and other services.

Further regulation of these businesses would depend on a vote of the city council, which would be allowed under Proposition 19 to create an ordinance that would provide local control over the number of sellers, location of sellers and other regulatory measures.

To place the measure on the ballot, the council had to declare a fiscal emergency since the item is a general tax and therefore must be voter-approved. The measure needs a simple majority to pass.

Lori Ann Farrell, the city's director of financial management, authored an argument in favor of Measure B, referencing a staff report she submitted to the city council on August 3 stating, "The primary purpose of this tax is to help address the projected \$18.5 million General Fund deficit in Fiscal Year 2011 (FY11) and subsequent projected deficits in FY12 and FY13 that will occur as labor costs continue to rise while revenue remains sluggish." Farrell also recommended in her report that the city council place a 5 percent tax on existing medical marijuana collectives. However, this failed to garner enough council votes to be placed on the ballot.

Farrell projects that Measure B could provide "millions of dollars" for essential city services, such as 9-1-1 emergency response, police and fire protection and recreation programs for youth and seniors. Councilmembers Gary DeLong and Patrick O'Donnell agreed the measure would raise revenue but neither could say how much.

"Basically it's unknown because we wouldn't know what the sales figure would

Medical Marijuana Measures In Other California Cities

Several cities in the state have placed measures on the November 2 ballot that would tax recreational cannabis if Proposition 19 passes, some including taxes on medical marijuana. Here are a few examples:

- The City of Sacramento's Measure C would change the city's current municipal code to cap the tax rate for businesses with annual gross receipts of \$10,000 or less to \$30 per year. Measure C would establish a minimum 4 percent tax of medical marijuana collectives' gross receipts and a minimum 10 percent tax on recreational cannabis sales. The rates are considered general taxes, so funding accrued would be used for any legal municipal purpose, according to the impartial analysis of the measure by Sacramento City Attorney Eileen Teichert.

- The City of Berkeley has two measures, S and T. Measure S is a 2.5 percent tax on medical marijuana businesses' gross receipts and a \$25 per square foot charge on nonprofit medical marijuana collectives for the first 3,000 square feet and \$10 per foot thereafter. The measure also includes a 10 percent sales tax on non-medical cannabis sales. Measure T would allow medical

marijuana collectives to operate in the city with up to 200 feet of cultivation for six cultivation sites in the Manufacturing District. It would prohibit collectives from operating within 600 feet of public and private schools, as well as other dispensaries, and also make changes to the city's medical cannabis commission.

- The City of Rancho Cordova also has two measures on the ballot – a cannabis business tax and a personal cannabis cultivation tax. Measure H is similar to Long Beach's Measure B, only the proposed tax would range from 12 to 15 percent of gross receipts and charge \$100 per square foot for nonprofit recreational cannabis operations. Measure O would require individuals who cultivate cannabis indoors to pay between \$600 to \$900 per year for each square foot of cultivation area into the city's General Fund. Individuals who cultivate outdoors would have to pay \$600 to \$900 for each 12.5-square-foot cultivation plot.

- The City of San Jose's Measure U would impose a sales tax of up to 10 percent tax of gross receipts for marijuana businesses. This particular measure is not specific to whether this tax would be applied to recreational cannabis sales or medical cannabis sales.

be. But the estimate was in the millions," O'Donnell said. "Certainly we don't know how much people would buy."

The argument in favor reads, "Regardless of whether you vote Yes or No on Proposition 19, you should vote YES on Long Beach's Measure B. This will ensure that IF marijuana is legalized by California voters, the City of Long Beach can impose a 15 percent tax potentially generating millions of dollars for critical city services right here at home."

Mais said estimates of the potential revenue that would come from the 15 percent tax on cannabis sales are difficult to make, largely because there are too many unknowns. "The unknown is what Proposition 19 requires, [that] the city would have to develop an ordinance if they wanted to allow retail sales as opposed to medical marijuana sales," Mais said. "So really, what it would come down to is what type of ordinance would the city council pass. In other words, would there be restrictions on the locations where you could have retail sales?"

Proposition 19 would prevent municipalities from taxing some recreational marijuana being consumed, Mais said, particularly that which is grown by an individual on a 25-square-foot plot. "Obviously if you're growing it in your own backyard for your own consumption, which it allows, I

don't see that the city would generate any revenue on that."

Cannabis could potentially be sold like cigarettes at convenience stores, grocery stores and liquor stores, or the city could allow recreational marijuana sales only at cannabis-specific stores – or both. There could be smoking lounges for cannabis use, like there are hookah bars, or such places could be banned. All such potentials would have to be determined by the city council if Proposition 19 passes. DeLong said he anticipates the regulations to be as tight as those on medical marijuana sales, "if not tighter."

Several other municipalities in the state have similar companion measures on the November ballot, including Sacramento, San Jose, Berkeley and Rancho Cordova. Some of these cities are also looking to tax medical marijuana, following in the footsteps of Oakland's tax of 1.8 percent of dispensaries' gross receipts. (Refer to article above for details on what these cities are proposing.)

If Proposition 19 passes, the actual implementation details will be left up to each municipality. "To a certain extent it leaves it to the individual cities to decide how it's going to be sold commercially," Mais said. "I think it's important to distinguish between the commercial part of it and the part of it that allows people indi-

vidually to cultivate for their own use."

So far, the Los Angeles County Democratic Party (LACDP) is the only known entity that has stated public opposition to Long Beach's Measure B. According to Eric Bradley, campaign services chair for LACDP, the party determined that the tax would be too burdensome for potential customers. "We understand that the city needs to balance the budget and that marijuana is the number one cash crop in California, but this would add to the already high price that it is to the people who definitely can't afford it," Bradley said. "We feel that's just too much of a burden. If the number wasn't that high, we might have supported it." The party is supporting Proposition 19.

The Republican Party of Los Angeles County is expected to take a stance on the measure and proposition on October 15, according to a party representative.

Whether Proposition 19 and Measure B pass or fail, there would be no resulting effect on medical marijuana collectives currently operating under the city's medical marijuana ordinance. "The two are completely separate from one another," Mais said. "The ordinance that we have deals strictly with medical marijuana. It doesn't deal with the recreational sales or use of marijuana. In fact, ours precludes that."