



Legislation Text

File #: 16-380, **Version:** 1

RESOLUTION Establishing November 8, 2016, as the Date for an Election on a Proposed Ballot Measure Seeking Voter Approval of a Tax On Cannabis Businesses, Establishing Policies and Procedures in Connection with Such an Election, and Requesting that the Alameda County Registrar of Voters Conduct Such an Election, and Requesting that the City Attorney Prepare an Impartial Analysis of the Proposed Ballot Measure

WHEREAS, the City Council of the City of San Leandro desires to impose a tax on cannabis businesses that may seek to operate within San Leandro in the amount of up to \$100.00 for each \$1000.00 of gross receipts for cannabis businesses; and

WHEREAS, California Constitution Article XIIC, Section 2(b), provides that no local government may impose a general tax unless and until that tax is submitted to the electorate and approved by a majority vote; and

WHEREAS, the proposed Cannabis Business Tax is a general tax, the revenues of which would be used for general governmental purposes, and placed in the City's general fund for the usual expenses of the City; and

WHEREAS, California Constitution Article XIIC, Section 2(b), requires that a measure proposing to impose a general tax must be consolidated with a city's general municipal election for members of the City Council; and

WHEREAS, November 8, 2016 is the date of the City's regular municipal election; and

WHEREAS, the City Council is authorized by California Elections Code Section 9222 to place measures before the voters; and

WHEREAS, the City Council desires to place the Cannabis Business Tax, attached hereto as **Attachment 1**, as a measure before the voters on the November 8, 2016 general election; and

WHEREAS, the City Council desires that the proposed measure be consolidated with the November 8, 2016 regularly scheduled general election, be held on the same date, and that within the City, the polling places and election officers of the two elections be the same, and that the County Elections Department of the County of Alameda canvass the returns of the general election and that the election be held in all respects as if there were only one election.

NOW, THEREFORE, IT IS HEREBY RESOLVED, that the City Council of the City of San Leandro does ordain as follows:

1. Placement of Measure on the Ballot. Pursuant to California Elections Code Section 9222, the City Council hereby resolves that the ballot for the November 8, 2016 election shall include a measure that, if approved, would impose a tax on cannabis businesses that seek to operate within the City of San Leandro; and

(a) Ballot Language.

The ballot language for the measure shall be as follows:

To maintain and enhance the City of San Leandro, with funding that cannot be taken by Sacramento, including: social services, public art, programs that celebrate diversity, multilingual programming and other general city services, shall the City of San Leandro levy an ongoing tax of up to 10% of gross receipts of cannabis (marijuana) businesses in the city, providing \$500,000 annually, requiring independent citizen oversight, financial audits, and that all funds stay in the City of San Leandro?

YES

NO

2. Proposed Ordinance. The Ordinance authorizing the Cannabis Business Tax to be approved by the voters pursuant to Section 1 is as set forth in **Attachment 1** hereto. The City Council hereby approves the submission of the Ordinance to the voters of the City at the November 8, 2016, election. The City requests that the County of Alameda Elections Department print **Attachment 1** in its entirety with the election materials. The full text of the ordinance shall be printed in the voter information guide.

3. Publication of Measure. The City Clerk is hereby directed to cause notice of the measure to be published once in a newspaper of general circulation in the City, in accordance with Section 12111 of the Elections Code and Section 6061 of the Government Code.

4. Request to Consolidate and Conduct Election and Canvass Returns.

(a) The City Council hereby requests that the Alameda County Board of Supervisors consolidate the election called by this resolution with the statewide election to be conducted on November 8, 2016 and order the election to be conducted by the Registrar of Voters. The City Clerk is directed to file a certified copy of this resolution with the Board of Supervisors of Alameda County and the Registrar of Voters of Alameda County on or before [REDACTED].

(b) The election on the measure shall be held and conducted, the voters canvassed and the returns made, and the results ascertained and determined as provided for herein. In all particulars, the election shall be held in accordance with the Elections Code of the State of California.

(c) The election on the measure shall be held in Alameda County in the City of San Leandro on November 8, 2016, as required by law, and the Board of Supervisors of Alameda County is authorized to canvass the returns of the election with respect to the votes cast in the City of San Leandro and certify the results to the City Council of the City of San Leandro.

(d) At the next regular meeting of the City Council of the City of San Leandro occurring after the returns of the election for the measure have been canvassed and the certification of the results to the City Council, the City Council shall cause to be entered in its minutes a statement of the results of the election.

(e) The City Council acknowledges that the consolidated election will be held and conducted in the manner prescribed in Elections Code Section 10418.

5. Submission of Ballot Arguments and Impartial Analysis.

(a) The last day for submission of direct arguments for or against the measure shall be by 5 p.m. on [REDACTED].

(b) The last day for submission of rebuttal arguments for or against the measure shall be by 5 p.m. on [REDACTED].

(c) Direct arguments shall not exceed three hundred words and shall be signed by not more than five persons.

(d) Rebuttal arguments shall not exceed two hundred fifty words and shall be signed by not more than five persons; those persons may be different persons than the persons who signed the direct arguments.

(e) The City Attorney shall prepare an impartial analysis of the measure by [REDACTED].

(f) The Mayor (and Council Member or Vice Mayor) (or Council Members _____) is/are hereby authorized to file a written argument in favor of the proposed measure, not to exceed three hundred words, on behalf of the City Council. At the Mayor's discretion, the argument may also be signed by members of the City Council or bona fide associations or by individual voters who are eligible to vote. In the event that an argument is filed against the measure, the Mayor and Vice Mayor/Council Member are also authorized to file a rebuttal argument on behalf of the City Council, which may also be signed by members of the City Council or bona fide association or by individual voters who are eligible to vote, which may be different from those who signed the direct argument.

(g) Pursuant to California Elections Code Section 9285, when the City Clerk has selected the arguments for and against the measure, which will be printed and distributed to the voters, the City Clerk shall send copies of the argument in favor of the measure to the authors of the argument against, and copies of the argument against to the authors of the argument in favor. Rebuttal arguments shall be printed in the same manner as the direct arguments. Each rebuttal argument shall immediately follow the direct argument, which it seeks to rebut.

6. Passage of the Resolution. Pursuant to California Government Code Section 53724 (b), this Resolution, including the approval of the submission of the proposed Ordinance (attached as **Attachment 1**) must be approved by a two-thirds vote of all members of the City Council.

7. Effective Date. This Resolution shall become effective immediately upon its passage

and adoption, and the City Clerk is directed to send certified copies of this Resolution to the Alameda County Board of Supervisors, to the Alameda County Clerk-Recorder, and County of Alameda Elections Department.

8. Appropriation of Necessary Funds. The City Manager is hereby authorized and directed to appropriate the necessary funds to pay for the City's costs of placing the measure on the election ballot.

9. Services of City Clerk. The City Clerk is hereby authorized and directed to take all steps necessary to place the measure on the ballot and to cause the ordinance or measure to be printed. A copy of the ordinance or measure shall be made available to any voters upon request.

10. CEQA. Compliance with California Environmental Quality Act. The approval of this resolution is exempt from the California Environmental Quality Act (Public Resources Code §§ 21000 et seq., "CEQA," and 14 Cal. Code Reg. §§ 15000 et seq., "CEQA Guidelines"). The tax proposed by this resolution is a general tax that can be used for any legitimate governmental purpose; it is not a commitment to any particular action. As such, under CEQA Guidelines section 15378(b)(4), the tax is not a project within the meaning of CEQA because it creates a government funding mechanism that does not involve any commitment to any specific project that may result in a potentially significant physical impact on the environment. If revenue from the tax were used for a purpose that would have such effect, the City would undertake the required CEQA review for that particular project. Therefore, pursuant to CEQA Guidelines section 15060 CEQA analysis is not required.