

CLACKAMAS COUNTY BOARD OF COUNTY COMMISSIONERS
Sitting/Acting as (if applicable)

Policy Session Worksheet

Presentation Date: February 21, 2024 **Approx. Start Time:** 10:30 am **Approx. Length:** 30 Minutes

Presentation Title: Measure 110 Advisory Ballot Question

Department: County Counsel

Presenters: Stephen Madkour, County Counsel, Jeffrey Munns and Shawn Lillegren, Senior Assistant County Counsel

WHAT ACTION ARE YOU REQUESTING FROM THE BOARD?

1. Approval of an advisory question for the May 21, 2024 election;
2. Approval of Election Form 805, Request for Ballot Title, and Election Form 801, Notice of County Measure Election, and the Explanatory Statement.

EXECUTIVE SUMMARY:

At an earlier policy sessions on June 7, 2023 and February 7, 2024, the Board considered possible advisory questions to refer to voters concerning partial or complete repeal of Measure 110. Presently the Board approved the following question:

1. Should legislators representing Clackamas County introduce/pass legislation repealing Measure 110 that decriminalized illegal drugs, including for juveniles?

Staff has attached for your review the completed the State Election Form (“SEL”) 805 and SEL 801 for the question above including the caption, question, summary, and a proposed Explanatory statement for inclusion in the voter’s pamphlet.

FINANCIAL IMPLICATIONS (current year and ongoing):

Is this item in your current budget? YES NO

What is the cost? \$60,000-\$70,000 What is the funding source? County General Fund

STRATEGIC PLAN ALIGNMENT:

- How does this item align with your Department’s Strategic Business Plan goals? N/A
- How does this item align with the County’s Performance Clackamas goals? Building public trust through good government.

LEGAL/POLICY REQUIREMENTS:

The measure language will need to be finalized with a ballot title, question, summary, and explanatory statement. Once approved by the Board the questions are referred to the clerk for publication. The caption cannot exceed 10 words describing the subject of the referral; the question cannot exceed 20 words plainly phrasing the main purpose of the referral so that an affirmative response to the question corresponds to a yes vote on the referral; and a summary that does not exceed 175 words describing the major effect of the referral. In addition, an explanatory statement of no more than 500 words must be prepared for inclusion in the voter’s pamphlet that must be, “impartial, simple, and understandable statement explaining the measure.” OAR 165-022-0040.

ORS 250.195 provides that any individual qualified to vote may file a petition in the circuit court to seek a different ballot title by contending that the ballot title is “insufficient, not concise, or unfair.” If a petition is filed, the circuit court would conduct the “first and final review.”

Due to the legislature’s recent discussions regarding revisions to the laws effected by Measure 110 changes may be implemented prior to the May election. This may cause an ambiguity in the question currently proposed to be referred to the voters. This could in turn lead to confusion on the part of the voters. Alternate questions for your consideration could be:

- Should state legislators representing Clackamas County introduce legislation to classify possession of hard drugs as a Class A misdemeanor crime?
- Should completion of a drug rehabilitation program be a requirement of a criminal conviction for drug possession?

The current legislative session will end following the last day for the Board to refer questions to the May ballot. The Board may want to consider placing any question on the November ballot to avoid the risk of confusion by voters because based on the deadlines for the May 2024 election. By placing any advisory questions on the ballot in the November 2024 general election, the Board may consider what, if any, effect current legislation will have on the provisions of Measure 110. Questions adopted later can address any changes made in the current short legislative session and precede the 2025 legislative session in January.

March 1, 2024, is the last day for the Board to approve the referral text and submit it to Elections. March 21, 2024 is the last day to withdraw a question from the May 2024 ballot.

PUBLIC/GOVERNMENTAL PARTICIPATION: There are a number of amendments to Measure 110 under consideration in the current legislative session. The potential for a legislative fix during the current session should be explored.

OPTIONS:

1. Defer decision on whether to refer an advisory question until after the current short legislative session.
2. Approve the Election Forms 805 and 801, as attached to this Staff Report and authorize Chair Smith to sign these forms on behalf of the Board.
3. Approve multiple questions and withdraw those, prior to March 21, 2024, that are not necessary depending upon actions taken in the current legislative session.
4. End the consideration of any advisory measure regarding Measure 110.

RECOMMENDATION:

Staff do not have a recommendation on this item due to the political nature of the topic.

ATTACHMENTS: Draft Form SEL 801 and 805 for the question with an explanatory statement.

SUBMITTED BY:

Division Director/Head Approval _____

Department Director/Head Approval _____

County Administrator Approval _____

For information on this issue or copies of attachments, please contact Jeffrey Munns and/or Shawn Lillegren in the Office of County Counsel @ 503-655-8362
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Request for Ballot Title Preparation or Publication of Notice

SEL 805

rev 08/21
OAR 165-014-0005

No later than the **81st day before an election**, a governing body that has referred a measure must prepare and file with the local elections official the text of the referral for ballot title preparation or the ballot title for publication of notice of receipt of ballot title. This form may be used to file the text of the referral and request the elections official begin the ballot title drafting process or file a ballot title and request the elections official publish notice of receipt of ballot title.

Filing Information

Election Date

May 21, 2024

Authorized Official

Contact Phone

Email Address

Referral Information

County advisory question concerning a legislative repeal of the provision of Measure 110 that decriminalized drugs.

This Filing is For

Drafting of Ballot Title Attach referral text.

Publication of Notice Ballot title below.

Ballot Title Additional requirements may apply

Caption 10 words which reasonably identifies the subject of the measure.

Should legislators repeal Measure 110?

Question 20 words which plainly phrases the chief purpose of the measure.

Should legislators representing Clackamas County introduce/pass legislation repealing Measure 110 that decriminalized illegal drugs, including for juveniles?

Summary 175 words which concisely and impartially summarizes the measure and its major effect.

The Clackamas County Board of Commissioners has placed this advisory question on the ballot to determine voter attitudes on the question of changes to state laws affected by the passage of Measure 110 in 2020.

Measure 110 approved by Oregon voters in 2020 decriminalized personal non-commercial possession of certain hard drugs, specifically, heroin, cocaine, methamphetamine, MDMA, LSD, psilocybin, methadone, and oxycodone. If the amount possessed was under a specified amount the penalty was reduced from a felony or misdemeanor to a Class E violation subject to a \$100 fine or a completed health assessment.

A yes vote means that you think the Oregon Legislature should criminalize possession of these hard drugs.

A no vote means that you think the Oregon Legislature should not criminalize possession of these hard drugs.

By signing this document:

→ I hereby state that I am authorized by the county or city governing body, or district elections authority to submit this Request for Ballot Title – Preparation or Publication of Notice.

Signature

Date Signed

Question:

Should legislators representing Clackamas County introduce/pass legislation repealing Measure 110 that decriminalized illegal drugs, including for juveniles?

Explanatory Statement:

The Clackamas County Board of Commissioners has placed this advisory question on the ballot to determine voter attitudes on the question of changes to state laws affected by the passage of Measure 110 in 2020.

Measure 110 approved by Oregon voters in 2020 decriminalized personal non-commercial possession of certain hard drugs, specifically, heroin, cocaine, methamphetamine, MDMA, LSD, psilocybin, methadone, and oxycodone. If the amount possessed was under a specified amount the penalty was reduced from a felony or misdemeanor to a Class E violation subject to a \$100 fine or a completed health assessment. This measure sought to establish addiction recovery centers funded with redirected marijuana tax collections.

Clackamas County is a provider of behavioral health services and needs to hear from the public about the perceived success or failures of Measure 110.

Notice of Measure Election

County

SEL 801rev 01/18: ORS 250.035, 250.041,
250.175, 254.103, 254.465**Notice****Date of Notice****Name of County or Counties**

Clackamas County

Date of Election

May 21, 2024

Final Ballot Title The following is the final ballot title of the measure to be submitted to the county's voters. The ballot title notice has been published and the ballot title challenge process has been completed.

Caption 10 words which reasonably identifies the subject of the measure.

Should legislators repeal Measure 110?

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A yes vote means that you think the Oregon Legislature should criminalize possession of these hard drugs.

A no vote means that you think the Oregon Legislature should not criminalize possession of these hard drugs.

Explanatory Statement 500 words that impartially explains the measure and its effect.

If the county is producing a voters' pamphlet an explanatory statement must be drafted and attached to this form for:

→ any measure referred by the county governing body; **or**

→ any initiative or referendum, if required by local ordinance.

Explanatory Statement Attached?

 Yes No

Authorized County Official Not required to be notarized.

Name**Title****Mailing Address****Contact Phone**

By signing this document:

→ I hereby state that I am authorized by the county to submit this Notice of Measure Election; **and**

→ I certify that notice of receipt of ballot title has been published and the ballot title challenge process for this measure completed.

Signature**Date Signed**