

**CLACKAMAS COUNTY BOARD OF COUNTY COMMISSIONERS**  
**Sitting/Acting as (if applicable)**  
**Policy Session Worksheet**

**Presentation Date:** Tuesday, July 12      **Approx Start Time:** 3:00 pm

**Approx Length:** 1 Hour

**Presentation Title:** Ballot Measure – Marijuana 3% Tax Ordinance

**Department:** County Counsel/DTD/PGA

**Presenters:** Stephen L. Madkour, Barbara Cartmill, Gary Schmidt

**Other Invitees:**

**WHAT ACTION ARE YOU REQUESTING FROM THE BOARD?**

Authorization to proceed with preparing resolution to file a ballot measure with the clerk for publication of notice and eventual placement on the November ballot.

**EXECUTIVE SUMMARY:**

The Board of County Commissioners has requested that staff prepare a ballot title for a marijuana tax measure to be placed on the November election ballot. A draft ballot measure and ordinance have been prepared and are attached.

**FINANCIAL IMPLICATIONS (current year and ongoing):**

Estimates only. Please see attached.

Is this item in your current budget?       YES       NO

What is the cost?      \$

What is the funding source?

**STRATEGIC PLAN ALIGNMENT:**

- How does this item align with the County's Performance Clackamas goals? This aligns with the Performance Clackamas goals of Building Public Trust through Good Government by voter involvement in all taxing decisions.

**LEGAL/POLICY REQUIREMENTS:**

A number of legal/policy issues are relevant to this issue.

**Ballot Measure Requirements:**

- The question must include three components:

- A ballot title – the caption that describes the subject of the referral (up to 10 words)
- The question of the referral (up to 20 words), and
- A summary describing the major effects of the referral (up to 175 words)

The question may also include a 500-word explanatory statement.

**Timeline for November 8 election:**

1. No later than **Friday, August 19**, the ballot title, question and summary must be sent to the County Clerk for publication.
2. There is a seven-day ballot title challenge period. If the title is challenged, the county would be in court for first and final review.
3. On **September 8**, all challenges must be completed and Form 801 submitted to the clerk.
4. The measure would be included in the voter’s pamphlet in which interested parties could include arguments in favor or against. Such arguments are due by **September 12**.

The Ballot Measures will require forwarding to the clerk who publishes notice of the measure, which is then subject to a ballot title challenge. Only after that period expires will the measure formally be referred to the ballot for the November election. The marijuana tax issue differs slightly from the motor vehicle tax issue because ORS 475B states that the County may adopt an ordinance that shall be referred to the voters. This process is not typical for either tax questions or ordinance adoption.

**PUBLIC/GOVERNMENTAL PARTICIPATION:**

The Ballot Measure will require a Resolution formally referring the matter to the clerk to be published and placed on the ballot.

**OPTIONS:**

Marijuana Tax

1. Refer the 3% marijuana Ordinance and tax authorization measure as drafted;
2. Refer the 3% marijuana Ordinance and tax authorization measure as amended.

**RECOMMENDATION:**

1. Direct staff to finalize ordinance and tax question for referral on the November election.

**ATTACHMENTS:**

1. Draft Ordinance and ballot measure imposing 3% marijuana tax

**SUBMITTED BY:**

Division Director/Head Approval \_\_\_\_\_

Department Director/Head Approval \_\_\_\_\_

County Administrator Approval \_\_\_\_\_

For information on this issue or copies of attachments, please contact Stephen L. Madkour, County Counsel, [SMadkour@clackamas.us](mailto:SMadkour@clackamas.us) or 503-655-8362.

AN ORDINANCE OF THE COUNTY OF CLACKAMAS IMPOSING A THREE PERCENT TAX ON THE SALE OF MARIJUANA ITEMS BY A MARIJUANA RETAILER IN UNINCORPORATED AREAS, AND REFERRING ORDINANCE

Whereas, ORS 475B.345 provides that a county governing body may adopt an ordinance to be referred to the voters that imposes up to a three percent tax or fee on the sale of marijuana items by a marijuana retailer in the unincorporated area of the county;

Whereas, the Clackamas County Board of County Commissioners wants to impose a tax on the sale of marijuana items by a marijuana retailer in the unincorporated area of Clackamas County;

NOW THEREFORE, BASED ON THE FOREGOING,

The People of Clackamas County ordain as follows:

DEFINITIONS.

Marijuana item has the meaning given that term in ORS 475B.015(16).

Marijuana retailer means a person who sells marijuana items to a consumer in this state.

Retail sale price means the price paid for a marijuana item, excluding tax, to a marijuana retailer by or on behalf of a consumer of the marijuana item.

TAX IMPOSED. As described in ORS 475B.345 the County of Clackamas hereby imposes a tax of three percent on the retail sale price of marijuana items by a marijuana retailer in the unincorporated areas of Clackamas County.

COLLECTION. The tax shall be collected at the point of sale of a marijuana item by a marijuana retailer at the time at which the retail sale occurs and remitted by each marijuana retailer that engages in the retail sale of marijuana items.

REFERRAL. This ordinance shall be referred to the electors of Clackamas County at the next statewide general election on Tuesday, November 8, 2016.

## **BALLOT TITLE**

### **CAPTION (10 words):**

Imposes 3% County Tax on Retail Sales of Marijuana Items

### **QUESTION (20 words):**

Shall Clackamas County impose a 3% tax on the sale of retail marijuana items in unincorporated areas of Clackamas County?

### **BALLOT SUMMARY (175 words):**

Under state law, a county governing body may adopt an ordinance to be referred to the voters of the County imposing up to a three percent tax or fee on the sale of retail marijuana items in unincorporated areas of the county by a state licensed marijuana retailer.

Approval of this measure would impose a three percent tax on the sale of marijuana items in the unincorporated area of the county by a state licensed marijuana retailer. The tax would be collected at the point of sale and remitted by the marijuana retailer. "Marijuana items" means marijuana, cannabinoid products, cannabinoid concentrates and cannabinoid extracts.

## EXPLANATORY STATEMENT

An impartial, simple and understandable statement explaining the measure and its effect for use in the county voters' pamphlet

*500 word limit under ORS 251.345 and OAR 165-022-0040(3)*

Approval of this measure would impose a three percent tax on the sale of marijuana items by a marijuana retailer within the unincorporated area of Clackamas County. If approved, the revenues from this tax are estimated to be \$\_\_\_\_\_. There are no restrictions on how the county may use the revenues generated by this tax.

Under Measure 91, adopted by Oregon voters in November 2014, codified in ORS chapter 475B and amended by the Legislature in 2015 and 2016, the Oregon Liquor Control Commission must license the retail sale of recreational marijuana. ORS 475B.345 provides that a county governing body may adopt an ordinance imposing up to a three percent tax on the sale of marijuana items (which include marijuana concentrates, extracts, edibles, and other products intended for human consumption and use) by retail licensees in the unincorporated areas of the County, but the ordinance must be referred to the county voters at a statewide general election. If the measure is approved by the voters, the governing body will adopt an ordinance imposing a three percent tax on the sale of marijuana items by a retail licensee in the unincorporated areas of the county. The tax will become effective 90 days after adoption of the ordinance.

## Marijuana Land Use Regulations: Estimated Future Revenue and Expenditures

November 24, 2015

*Disclaimer: Please note that the information provided below is highly speculative based on early projections from the state and very rough estimates of what county needs might be.*

### REVENUE

Source	Estimated Amount	Comments
17% state tax*** on retail marijuana sales	\$100,000-300,000 up through 6/30/17, based on original taxing rate* and projected sales**. (Does not take into account revenue from 25% tax rate on early start sales beginning January 1, 2016.) Unknown after that until number of licenses is known.	10% of state revenue goes to counties that have not opted out to assist with law enforcement, based on: <ul style="list-style-type: none"> <li>• population (through 6/30/17)</li> <li>• number of licenses issued (beginning 7/1/17)</li> </ul>
3% county tax on retail marijuana sales	Estimated at \$180,000 based on state projects, but speculative until number of licenses is known.	Counties have authority to ask voters to approve a 3% tax on retail marijuana sales. Must be approved by voters.

\* The Oregon Liquor Control Commission (OLCC) currently estimates \$10.7 million in revenue for the 2015-17 biennium. Revenue will jump in the next biennium given that retail locations are not anticipated to open until fall 2016.

\*\* The first week of legal recreational sales in Oregon were estimated at around \$11 million, which is well ahead of initial sales in Colorado (\$5 million the first week) and Washington (\$2 million the first month). While it is unlikely sales in Oregon will continue at that pace, if it did the state would generate more than \$97 million a year (not biennium) in revenue with a 17% tax.

#### \*\*\*State Revenue Distribution

- 40% - Common School Fund
- 20% - mental health alcoholism and drug services
- 15% - State Police
- 10% - cities, for enforcement
- 10% - counties, for enforcement
- 5% - Oregon Health Authority (OHA), for alcohol and drug abuse prevention

### EXPENDITURES

Program/Service	Estimated Amount	Comments
1.0 FTE Code Enforcement Officer	\$110,000/year	Full cost, including benefits. Officer could easily be kept busy with non-marijuana-related issues.
1.0 FTE Deputy Sheriff	\$115,000/year	Full cost, including benefits.
1.0 FTE Sergeant	\$135,000/year	Full cost, including benefits.