



## Legislation Details (With Text)

**File #:** 18-0930      **Version:** 1

**Type:** Agenda Item      **Status:** Approved

**File created:** 6/1/2018      **In control:** Board of Supervisors

**On agenda:** 6/12/2018      **Final action:** 6/12/2018

**Title:** Chief Administrative Office recommending the Board approve and authorize the Chair to sign Resolution 122-2018 for the November 2018 election to place the following ballot measure language requesting voters to support a 2% General Tax increase to the Transient Occupancy Tax rate, increasing the tax rate from 10% to 12% to tourists who reside in hotels, motels and vacation home rentals in El Dorado County:

Shall the measure to amend the El Dorado County Ordinance to:

- 1) Increase the tax rate upon short term occupants of hotels, motels, vacation home rentals and similar facilities in the unincorporated areas of El Dorado County from 10% to 12% of the rent charged to the visitor; and
- 2) Amend the Ordinance section to add that, "The revenue from the 12% tax may be spent for unrestricted general revenue purposes", be adopted? (Est. Time: 45 Min,)

**FUNDING:** General Fund - Transient Occupancy Tax.

**Sponsors:**

**Indexes:**

**Code sections:**

**Attachments:** 1. A - Blue Route for TOT Measure, 2. B - Reso xx-2018\_TOT Ballot Language, 3. Executed Resolution 122-2018 As Amended 6-12-18

Date	Ver.	Action By	Action	Result
6/12/2018	1	Board of Supervisors	Approved	Pass

Chief Administrative Office recommending the Board approve and authorize the Chair to sign Resolution **122-2018** for the November 2018 election to place the following ballot measure language requesting voters to support a 2% General Tax increase to the Transient Occupancy Tax rate, increasing the tax rate from 10% to 12% to tourists who reside in hotels, motels and vacation home rentals in El Dorado County:

Shall the measure to amend the El Dorado County Ordinance to:

- 1) Increase the tax rate upon short term occupants of hotels, motels, vacation home rentals and similar facilities in the unincorporated areas of El Dorado County from 10% to 12% of the rent charged to the visitor; and
- 2) Amend the Ordinance section to add that, "The revenue from the 12% tax may be spent for unrestricted general revenue purposes", be adopted? (Est. Time: 45 Min,)

**FUNDING:** General Fund - Transient Occupancy Tax.

### DEPARTMENT RECOMMENDATION

Chief Administrative Office recommending the Board approve and authorize the Chair to sign Resolution 122-2018 for the November 2018 election to place the following ballot measure language requesting voters to support a 2% General Tax increase to the Transient Occupancy Tax rate, increasing the tax rate from 10% to 12% to tourists who reside in hotels, motels and vacation home rentals in El Dorado County:

*Shall the measure to amend the El Dorado County Ordinance to 1) increase the tax rate upon short term*

*occupants of hotels, motels, vacation home rentals and similar facilities in the unincorporated areas of El Dorado County from 10% to 12% of the rent charged to the visitor, and 2) amend the Ordinance section to add that, "The revenue from the 12% tax may be spent for unrestricted general revenue purposes", be adopted?*

## DISCUSSION / BACKGROUND

Under Chapter 3.28 of the County Code of Ordinances, the County imposes and collects a 10% Transient Occupancy Tax (TOT) rate on the rent charged by the operator for occupancy of hotels, motels, inns, or other lodging, except a camping site or a space at a privately owned or State Park campground or recreational vehicle park.

The 10% rate was established in 2004, when Measure H was placed on the ballot as a General Tax, and passed by a majority of the electorate at 59.7%. Transient Occupancy Tax is a general fund tax revenue, similar to property taxes and sales tax. Because the Measure was passed as a General Tax, the use of funds is not legally restricted and can be used for general governmental purposes. However, El Dorado County General Plan Policy 10.1.6.4 states that the majority of TOT revenue shall be "directed toward the promotion of tourism, entertainment, business, and leisure travel in El Dorado County." For budget purposes, the "majority" of TOT has been construed to mean 51% of the current year General Fund TOT budget, with approximately half of the 51% going to Promotional Funding Programs.

While General Plan Policy 10.1.6.4 is an effective statement of intent as to how TOT revenue should be appropriated and should not be ignored by the Board when establishing its annual budget, the Policy does not constitute a mandatory obligation of the Board.

The County currently allocates 10% of the total current year TOT collected to the Treasurer-Tax Collector, and beginning in Fiscal Year 2013-14 also allocates 5% of the prior year TOT revenue to Veteran Affairs (Legistar File #13-0280). These allocations are not required by General Plan Policy, but are at the discretion of the Board and can be re-evaluated at any time.

Staff presented the Board of Supervisors with an in-depth overview of the above on March 13, 2018 (Legistar File #: 18-0372). During the presentation Staff offered several alternatives to increase TOT funding, including increasing the TOT rate from 10% to 12%, noting that increasing TOT by 2% would provide an estimated \$734,190 of additional discretionary revenue to the County annually, based on TOT figures from Fiscal Year 2016-17. The Board directed Staff to pursue a 2% increase in TOT and to return to the Board with draft ballot measure language for approval by June.

The threshold for approval of a General Tax is a simple majority (50%+1) of the electorate, which is lower than that of a Special Tax, which requires a 2/3 supermajority (66.66%) of the electorate. In addition, a General Tax will continue to provide the Board with the maximum flexibility and discretion on the use of TOT revenue collected. Revenues could be directed toward parks, road maintenance, broadband, Vacation Home Rental (VHR) enforcement, or any other general governmental purpose.

If the measure is approved by the voters, the Board maintains their existing flexibility and can choose to allocate funds consistent with the current process, including the allocation to Veteran Affairs and the distribution of funds pursuant to General Plan Policy 10.1.6.4, which includes funds allocated to Promotional Funding Programs.

Staff recommends the Board pursue a General Tax as it is in alignment with the Board's Budget Policy B-16, Item 2:

***Maximize the Board's Discretion:*** *Except where the Board has previously made a decision to earmark revenues for a particular purpose, wherever legally possible, revenues are to be treated as discretionary resources, rather than as dedicated to a particular program or service, to provide the Board as much flexibility as possible in allocating resources to local priorities, based on the strategic plan.*

## ALTERNATIVES

The Board could choose to reduce or increase the recommended 2% tax increase, or could choose not to take any action at this time. In addition, the Board could choose to place this measure on the ballot as a 'Special Tax' requiring 2/3 approval. If the Board chooses this action, they must also determine the specific purposes of how the TOT funds will be used. For example, a Special Tax would allow the Board to dedicate TOT revenue to a specific purpose, such as Veteran Affairs, Promotional Funding Programs, or any other specific purpose, but it could not be amended without returning to the voters for approval.

If the Board would like to pursue a Special Tax that statutorily identifies Veteran Affairs and/or Promotional Funding Programs as currently allocated, it is recommended that the Board subsequently pursue a General Plan amendment to remove or revise Policy 10.1.6.4 from the Economic Development Element, to avoid future confusion or potential conflicts over the allocation of funds during the budget process.

Staff does not recommend this option because a Special Tax would inhibit the Board's ability to use TOT revenue to address future, unknown challenges. For example, had the Board pursued a Special Tax in 2004 with Measure H, they would not have their current ability to adapt the use of TOT revenue to the County's changing needs, including setting funding aside for Broadband and VHR enforcement, neither of which were an issue 14 years ago when the Measure was passed.

#### **OTHER DEPARTMENT / AGENCY INVOLVEMENT**

County Counsel, Elections, and Treasurer Tax Collector

#### **FINANCIAL IMPACT**

If the voters approve the increase to the TOT rate from 10% to 12%, an estimated \$734,190 of additional discretionary revenue would be provided to the County annually, based on TOT figures from Fiscal Year 2016-17.

The cost of placing a measure on the ballot for a Special Election is \$130,000. However, placing the measure on the upcoming November election would be significantly less as the cost associated with the measure will be "shared" by the other items placed on the ballot including County and State propositions and special district elections. The Elections Department cannot provide an accurate cost estimate until all ballot requests have been submitted; an estimate of the County's share of placing a TOT increase measure on the ballot would be available at the close of the filing period in mid-August.

Staff will return to the Board with a budget amendment once the final cost is determined by the Elections Department. Sufficient funding is available within the Fiscal Year 2018-19 Recommended Economic Development budget and there would be no change to Net County Cost.

#### **CLERK OF THE BOARD FOLLOW UP ACTIONS**

Obtain Chair's signature on the Resolution and return a signed copy to the Chief Administrative Office.

#### **STRATEGIC PLAN COMPONENT**

This recommendation is in alignment with the County's Strategic Plan, including the Good Governance Strategic Plan Component - Objective 1: Establish sound fiscal policies and enable trust and transparency by ensuring accountability, efficiency, flexibility, innovation and excellence in all operations; and the overall goal of both the Economic Development and Infrastructure Strategic Plan Components - Enable a prosperous and vibrant economy.

#### **CONTACT**

Don Ashton, CAO