



Legislation Text

File #: 24-1077, **Version:** 2

Planning and Building Department, Commercial Cannabis Division, and the Treasurer-Tax Collector recommending the Board Approve the **Final Passage** (Second Reading) of Ordinance **5203** to consider amendments to the commercial cannabis tax rate structure changing the tax rate types for all types of cannabis cultivation from various square footage rates to three percent of gross receipts commencing upon the adoption of the Ordinance and increase by one half percent each subsequent fiscal year until reaching four percent; increasing to three and half percent on July 1, 2025, and four percent on July 1, 2026. (Cont. 6/25/2024, Item 52)

FUNDING: N/A

DISCUSSION / BACKGROUND

On June 25, 2024, the Board heard the Introduction (First Reading) of Ordinance 5203. The Board Continued Ordinance 5203 to July 16, 2024 for Final Passage (Second Reading).

On October 17, 2023 (Legistar File 23-1817), the Board approved a Resolution of Intention (ROI) to adopt amendments to the commercial cannabis ordinances. The tax amendments portion of that ROI was separated from the other five amendments as it is not subject to the statutory review process required for the zoning code. All other amendments were approved by the Board on February 27, 2024 (Legistar File 24-0175), leaving the final consideration of tax amendments as the final update needed to the ordinance.

Planning and Building and the Treasurer-Tax Collector are requesting that the Board consider adoption of an ordinance amending the taxation of commercial cannabis activity structure and rates. The amendment will reduce labor intensity, making administration and auditing simpler. The proposed ordinance will change the tax rate for all types of cannabis cultivation from various square footage rates to three percent of gross receipts upon adoption. Preliminary calculations suggest that the amendment will not significantly impact the amount of taxes collected. The rate will increase to three and half percent on July 1, 2025, and four percent on July 1, 2026. The annual escalation clause is included to provide time for evaluation the rate's appropriateness, with potential further adjustments to be presented to the Board if necessary. The ordinance sets the tax rate within the range approved by the voters. The proposed ordinance also clarifies that taxes must be remitted in accordance with the provisions of Section 3.20.090 of the El Dorado County Code.

Additionally, staff are requesting that the Board determine that the ordinance is exempt under California Environmental Quality Act (CEQA) Guidelines §15060(c)(2), and §15061(b)(3) as it can be seen with certainty that there is no possibility that the modifications to the Cannabis tax rates will have a significant effect on the environment, and this change will not result in a direct or reasonably foreseeable indirect physical change in the environment. The proposed ordinance also falls within a category of activities excluded from the definition of a project pursuant to CEQA Guidelines §15378, as it relates to funding and fiscal activities not involving a commitment to any specific project.

ALTERNATIVES

The Board could choose not to approve the proposed change in the tax structure and leave the current square footage cultivation rates in place or set the cultivation tax at another rate within the voter approved range which is one of the following methods: \$1 to \$30 per canopy square foot or 1% to 15% of gross receipts.

PRIOR BOARD ACTION

September 12, 2023 (Legistar File 23-1501), the Board directed staff to return with an ROI to initiate the amendment process for the County's existing Cannabis Ordinances.

October 17, 2023 (Legistar File. 23-1817), the Board adopted Resolution 161-2023 to amend Sections 130.41.100, 130.41.200, and 3.22 of the Cannabis Ordinances and the additional direction for staff to return directly to the Board to amend the Cannabis Tax Rate.

February 6, 2024 (Legistar File 24-0274) the Board approved to establish a Cannabis Ad Hoc Committee to study cannabis ordinance issues and appointed Supervisor Laine and Hidahl to the Cannabis Ad Hoc Committee.

On April 9, 2024, Legistar File 24-0688, the Board approved the dissolution of the Cannabis Ad Hoc committee.

OTHER DEPARTMENT / AGENCY INVOLVEMENT

Treasurer-Tax Collector
County Counsel

CAO RECOMMENDATION / COMMENTS

Approve as recommended.

FINANCIAL IMPACT

There is no specific financial impact to be considered with this item as there are only three approved cultivation licenses at this time. Of those three, only one is currently actively cultivating cannabis pursuant to their CCUP, so it is difficult to ascertain the change in taxes collected. As more cultivators commence growing operations, staff will have a better sense of the financial impact of the amended tax collection structure.

CLERK OF THE BOARD FOLLOW-UP ACTIONS

- 1) Obtain the Chair's signature on the ordinance summary and publish in the newspaper no less than 5 days prior to Final Passage.
- 2) Publish the summary ordinance to include the final Board vote within 15 days after Final Passage.
- 3) Clerk to forward one (2) fully executed copies of Ordinance to the Planning and Building Department, Planning Services, attention Chris Smith
- 4) Send the full ordinance to Municode for codification following Final Passage.

STRATEGIC PLAN COMPONENT

Public Safety, Healthy Communities, Good Governance

CONTACT

Chris Perry,

Assistant Director
Planning and Building Department