

**Review of California Municipal Marijuana Business Taxation:  
Background, Case Studies, and Strategies for Adoption**

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**Master in Public Administration**

**PA715**

**Spring 2017**

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**May 23, 2017**

## ABSTRACT

Proposition 64 – the Control, Tax and Regulate Adult Use of Marijuana Act (AUMA) – took effect on November 9, 2016. The Act included the following main elements:

- Decriminalized recreational (non-medical) use for persons over 21
- Decriminalized personal cultivation of up to six plants
- Reduced state penalties for marijuana-related crimes
- Established state system for licensing and taxation of marijuana businesses
- Allowed local regulation, prohibition, and taxation of marijuana businesses

The Medical Cannabis Safety and Regulation Act (MCSRA) established the Bureau of Medical Cannabis Regulation to license and regulate marijuana businesses under the MCSRA. With Proposition 64, this new bureau was renamed the Bureau of Marijuana Control (Bureau) and will license both medical and recreational marijuana businesses starting January 1, 2018 (Bureau of Marijuana Control [BOMC], 2017b). Both acts defer land use authority to local agencies regarding if and where to allow marijuana businesses. In addition to setting state excises tax rates, the AUMA grants cities the ability to establish local excise taxes on marijuana businesses and exempts medical marijuana from the state and local general sales tax that applies to most goods and services.

This paper will provide a brief summary of the regulation of recreational marijuana under the AUMA, medical marijuana under MCSRA, and an explanation of the new state excise taxes on both medical and recreational marijuana created with Proposition 64. The paper will then describe the methods and taxation rates different local governments have adopted to tax marijuana businesses. We will discuss case studies of different local approaches to marijuana taxation. We will explore the city of Sacramento's example of a proposed special tax specifying that funds from marijuana taxation be used for children's services, and will analyze why that taxation measure failed. We will conclude with recommendations for successful marijuana taxation measures, ideas for pursuing this as a revenue source for children's funding, and lessons learned with local taxation ordinances.

## **Review of California Municipal Marijuana Business Taxation: Background, Case Studies, and Strategies for Adoption**

### **BACKGROUND**

**Medical marijuana.** California voters legalized the medical use of marijuana with the Compassionate Care Act (Proposition 215) in 1996. For the past two decades, regulation of medical marijuana has been largely left to local governments. In 2004 the legislature adopted Senate Bill 420, which created guidelines for Proposition 215 intended to protect patients from arrest by quantifying legal amounts of marijuana for patients to possess and creating a voluntary state medical marijuana identification card program (CalNorml, n.d.; Bureau of Marijuana Control [BMC], 2017b).

In September 2015, three state laws known collectively as the Medical Cannabis Regulation and Safety Act (MCRSA) were enacted by the legislature (AB 243, Wood, AB 266, Bonta, and SB 643, McGuire) (Bureau of Medical Cannabis Regulation, n.d.). MCRSA provides a framework for the regulation of medical marijuana and divides the responsibility for state licensing between three state entities – the CA Department of Food and Agriculture, the CA Department of Public Health and the Bureau of Medical Cannabis Regulation (renamed the Bureau of Marijuana Control) (BMC, 2017a). The Act establishes a dual licensing program between local cities and counties and the state requiring medical marijuana businesses to obtain both state and local licenses. Under MCRSA, the state will issue licenses for medical marijuana businesses beginning January 1, 2018 (BMC, 2017c).

On April 28 and May 5, 2017, the bureau issued draft regulations that define key terms, including the different classifications of marijuana license types, which include medical cannabis cultivators, manufacturers, testing laboratories, transporters, distributors, and dispensaries. The draft regulations also identify the prioritization for marijuana license applicants based on compliance with local medical marijuana regulations. Public hearings are scheduled for June 2017 after which the Bureau of Marijuana Control may revise the proposed rules and re-post them for public review before adoption (BMC, 2017a).

**Recreational Marijuana.** With passage of the AUMA, the consumption and cultivation of marijuana for recreational purposes is decriminalized for persons aged 21 and older. Persons of legal age may possess, process, transport, purchase, obtain, or give away up to 28.5 grams of non-concentrated marijuana or up to eight grams of concentrated marijuana. Indoor cultivation of up to six plants per residence for personal use is allowed. Restrictions on personal use include bans wherever tobacco use is prohibited, in public spaces, while in a vehicle, or within 1,000 feet of youth or daycare centers.

While cultivation and possession have been decriminalized with the AUMA, purchasing marijuana will not be legal in California until the Bureau of Marijuana Control, within the Department of Consumer Affairs, issues licenses to marijuana businesses. The Act creates a comprehensive “track-and-trace program” for the regulation of commercial marijuana (Bureau of Medical Cannabis Regulation, n.d.). The bureau will begin accepting applications January 1, 2018 and licenses will require annual renewal.

The AUMA generally mirrors the MCRSA. A few key differences include the MCRSA requires an independent distributor to bring marijuana to laboratories for testing while AUMA does not; the MCRSA limits one entity from holding more than two license types (thus discouraging vertical integration), while the AUMA does not to the same degree; and the MCRSA requires the state licensing agency to obtain evidence of a local approval for the marijuana business, while the AUMA does not place that responsibility on the state licensing agency (League of California Cities, 2016; LAO, December 20, 2016).

On April 4, 2017, Governor Brown released a proposed bill to reconcile differences between the MCRSA and the AUMA (Martinson, C. & Hammer, B. 2017). This reconciliation is currently underway at the legislature concurrent to the Bureau of Medical Cannabis developing regulations in order to be able to accept and issue licenses for both medical and recreational marijuana businesses on January 1, 2018.

**Federal challenges to state and local marijuana regulations.** In 2013, then Deputy Attorney General James Cole distributed a memo to federal prosecutors instructing them to continue to abide by and enforce certain marijuana cultivation and use laws on a federal level. The memo states that the federal government’s top

enforcement priorities are to prevent 1) the distribution of marijuana to minors or in the vicinity of minors; 2) the growth of criminal enterprises; 3) the diversion of marijuana from states where it is “legal” to states where it is not; 4) the use of state-authorized marijuana activity as a cover for other illegal activity; 5) marijuana activity involving violence and the use of firearms; 6) adverse public health effects such as drugged driving; 7) the growth of marijuana on public lands; and 8) marijuana possession on federal property. In the Cole Memorandum the Department of Justice (DOJ) directs federal prosecutors to focus on conduct that implicates these types of harms but emphasizes that all marijuana is illegal. The Memorandum also states that large-scale, commercial operations may raise special concern and directs federal prosecutors to review each operation on a case-by case basis (Cole, 2013).

The Memorandum suggests that the federal government might be less likely to enforce federal laws against states where marijuana has been made legal, and where these states have put in place adequate regulations and systems that address the federal government’s top enforcement priorities. This affords states that maintain these prescribed guidelines some autonomy to reasonably regulate themselves regarding the cultivation, sale, and use of state legalized medical and non-medical marijuana (Cole, 2013).

Since the issuance of this memo, a new administration and Attorney General Jeff Sessions has come into office. Proponents of the growing trend of state-authorized recreational marijuana were immediately alarmed based on Sessions’ record as a hardliner on prosecuting minor drug offenses. Concerning this possible change in DOJ priorities, Sessions has “made no secret about his disdain for marijuana” and, in response to the increasing rate of state legalization, he has stated “I am definitely not a fan of the expanded use of marijuana.” (Johnson, 2017). In May 2017 Sessions issued a memorandum directing federal prosecutors to pursue the most serious drug offenses and invoked use of mandatory minimum sentences, a practice the Obama Administration had moved away from under Attorney General Eric Holder (Tanfani & Halper 2017).

Legalized marijuana advocates, including governors of four states, have indicated that they would be willing to fight back against changes in federal enforcement policy and have even sent a joint letter to the Trump Administration urging them to leave the issue to the states (Berke, 2017).

According to Tim Cromartie, a legislative representative for the League of California Cities, there is a bipartisan consensus in Congress on the issue of continuing to deny funding for federal enforcement efforts against medical marijuana. Cromartie explained that the lack of federal enforcement against medicinal marijuana is important because California cities could see a resurgence in medical marijuana and efforts to move forward with the implementation of Proposition 64 could potentially be put on hold if the federal government decides to fund efforts for federal enforcement against recreational marijuana operations (Cromartie, 2017, p. 25).

***State Taxation of Marijuana Businesses.*** The passing of AUMA represents a significant new tax revenue stream for the state of California and participating cities. Businesses will be required to pay a 15% state excise tax on their gross receipts and cultivation tax of \$9.25/per dry-weight ounce of flowers and \$2.75/per dry-weight ounce of leaves. Local governments may impose their own marijuana business-specific taxes in addition to the state taxes. Marijuana cultivated for personal use will not be subject to the cultivation taxes, and medical marijuana will be exempt from existing state and local sales tax. Medical marijuana will be subject to the state and local excise taxes.

Table 1 below, summarizes the approximate “cumulative” taxation rate as roughly 30%–40% by combining the 15% state excise tax, cultivation by-weight taxes, and the existing state and local sales tax (8.8% on average) (League, April 6, 2017). Industry sources indicate that a combined marijuana tax greater than 30% may depress sales of legal marijuana (and thus tax revenues) and may not deter the well-established black market (League, September 26, 2016; Henschman & Scarborough, 2017). Colorado, Washington, and Oregon have already decided to reduce their marijuana tax rates to curb the proliferation of black market marijuana, with most proposals under the cumulative rate of 25% (Henschman & Scarborough, 2017). Therefore, cities looking to tax

recreational marijuana should consider existing sales taxes rates and the state excise taxes when considering their local rate.

**Table 1: Summary of approximate cumulative marijuana tax**

New cultivation tax <sup>1</sup>	\$9.25/oz. dried flowers and \$2.75/oz dried leaves
New state excise tax <sup>1</sup>	15% marijuana business tax
Existing state and local sales tax ( <i>medical marijuana exempt</i> ) <sup>2</sup>	8.8 % average tax on sales of all retail products
New local excise tax	4%–15% marijuana business tax
<b>TOTAL</b>	<b>~ 30%-40%</b>

1. Effective January 1, 2018
2. Effective November 9, 2016

**Revenue Projections and Allocation.** Revenues from the state excise taxes will be deposited in a special fund, the California Marijuana Tax Fund. In a presentation to the California Senate Budget and Fiscal Review Committee, the Legislative Analyst's Office (LAO) explained that the amount of revenue is highly uncertain (LAO, February 16, 2017). The LAO presentation further outlined specific monetary allocations within Proposition 64 totaling \$25 million per year, increasing by \$10 million thereafter. The remaining revenue will be allocated as follows: 60% for youth programs, substance abuse education, prevention, and treatment, administered by the Department of Health Care Services; 20% for environmental cleanup and remediation, administered by the Departments of Fish and Wildlife and Parks and Recreation; and 20% to law enforcement, administered by the California Highway Patrol and Board of State Community Corrections. The legislature’s role in allocating the revenue is limited to some extent until 2028.

It is important to note that cities that ban state-licensed marijuana businesses will not be eligible for state revenue distributed through grants. According to the League of Cities, there is little information available about the proposed distribution of the tax revenue through grant programs (League, April 6, 2017). However, it

is clear that cities that do not allow commercial marijuana businesses within their jurisdiction will not be eligible for grants funded by taxation on marijuana.

The University of California Agricultural Issues Center (UCAIC) prepared an economic costs and benefits analysis for the MCRSA (UCAIC, 2017). The authors note that public information on cannabis is scarce, there are no official data sources on the prices or quantities of cannabis products sold, products vary significantly, and there are geographic differences in price. Nonetheless, the UCAIC developed an estimate of the medical and recreational marijuana market segments for their analysis and reviewed media, industry and other analyst's estimates. The range in estimates of the future legal marijuana market in California is \$4.3-\$11 billion and the average is \$7 billion (UCAIC, 2017, p. 59).

For the reasons outlined above, it is also difficult to anticipate the potential revenues from a local excise tax. Like local sales taxes, it will be dependent upon the number of marijuana businesses the local government allows, the taxation rate, and competition with neighboring cities. We provide some information on revenue from medical marijuana sales in our case studies below, however, it should be noted these will not be a direct correlation with recreational sales revenue for a number of reasons that are difficult to predict. With implementation of the MCRSA and AUMA, there will be a shift of adult medical marijuana consumers to recreational marijuana and new recreational marijuana users will enter the market both from within the state and from out-of-state as tourists (UCAIC, 2017). The UCAIC estimated 60% of current demand for medical marijuana shifting to the new adult-use market segment for a market summary of 61.5% adult recreational use, 29.5% unregulated illegal use, and 9% medical. As discussed above, the cumulative tax rate combining state and local taxes could be so high as to discourage compliance and encourage sales on the black market. That said, it is important to note that other states that have legalized recreational marijuana, such as Colorado and Washington, have both exceeded their initial tax revenue estimates from marijuana taxes (Henchman & Scarboro, 2017).



**Local Marijuana Taxes and Fees.** Like the state, local governments see taxation of marijuana businesses as a possible new funding source, with 44 California jurisdictions proposing new marijuana taxations in anticipation of or reaction to Proposition 64 in 2016 or 2017 (BallotPedia, n.d.). Voter approval is required prior to enacting, increasing, or extending any type of local tax. Taxes that apply to specific goods, such as state gasoline or cigarettes taxes, are an example of an excise tax, which is a tax on the privilege of using or doing something with property. These are different from state and local sales taxes, which are taxes on the privilege of selling tangible personal property at retail. Unlike excises taxes, sales taxes are assessed on most goods with a few exceptions, such as groceries and medicine.

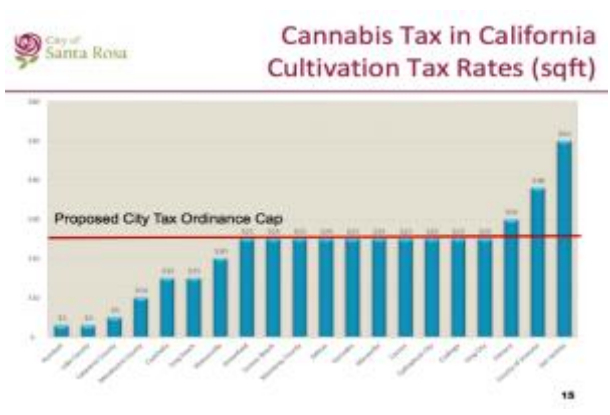
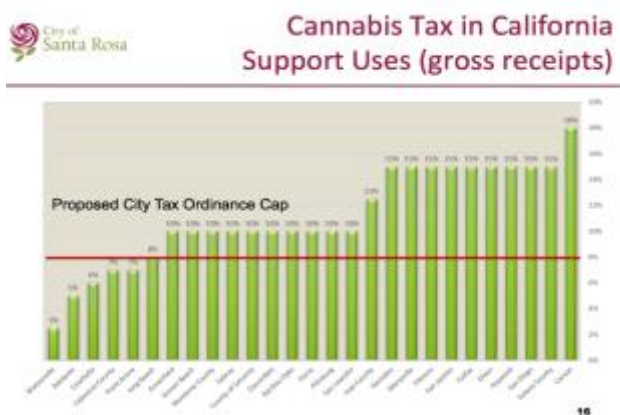
The statewide sales tax rate is 7.25%. Cities and counties can add up to 2% additional sales taxes through voter-adopted local taxes. Sales taxes are collected the local county treasurer and redistributed by the State Board of Equalization. Business taxes, such as the marijuana excise tax, are collected and administered by the local government, rather than by the State Board of Equalization (Institute for Local Government, 2016).

When a tax is proposed for general purposes (a “general tax”), a majority of voters are needed for approval. A general tax election must be consolidated with a regularly scheduled general election, unless an emergency is declared by unanimous vote of the governing body. When a tax is proposed for specific purposes (a “special tax”), two-thirds of the voters must agree to enact the tax. Special taxes may be proposed in a special, rather than general, election date (Institute for Local Government, 2016).

Cities and counties have adopted various types of local business taxes on marijuana sales. We reviewed a selection of major cities and counties within the cultivation and consumptions areas of the state to identify trends in their taxation types and rates. The most common methods include a tax on the gross receipts of retail sales and a tax on the area used for cultivation. The cultivation tax is sometimes subdivided further by growing condition into indoor, outdoor, and mixed-light cultivation areas, which are those with both natural and synthetic light growing conditions. Some cities and counties also tax the distribution or transportation of raw

materials and products from manufacturers to testing labs and retailers, and some include home delivery within the retail sales category.

The city of Santa Rosa has been in the process of developing regulations for medical marijuana businesses since February 2016. As part of those regulations, the city is considering taxation and has placed Measure D on the June 2017 ballot (Santa Rosa City Council Resolution No. RES-2017-035, March 7, 2016). The tables below provide a summary of the taxation rates for retail sales and cultivation areas from other municipalities compared to the proposed City of Santa Rosa taxation caps (Guhin, 2017).



Source: March 7, 2017 presentation to the Santa Rosa City Council, David Guhin, Director, Planning and Economic Development Department

In addition, cities and counties can impose business license fees to address costs associated with the implementation and enforcement of regulations. These fees do not require adoption by the voters, however, they cannot exceed the actual costs of providing services. Cities can also impose penalties for violation of local regulations, including for failure to pay required taxes by legal marijuana businesses and for operating an illegal marijuana business.

**Utility Tax.** Another approach local government could use to raise revenues from marijuana cultivation is a utility tax on indoor grows. In California, indoor cultivation for medicinal marijuana consumes 9% of household electricity (Oldham, 2015). In 2012, the city of Arcata wanted to curb excessive electricity usage from indoor cultivation sites and took advantage of a “window of opportunity” to engage their local community in policy

entrepreneurship and promote policy change on this issue (Theodoulou & Cahn, 2013, p. 165). With the higher voter turnout during a presidential election year, the city council proposed a measure that ultimately passed in a 2-to-1 margin, which resulted in a 45% surcharge on residences using 600% or more of the city's residential baseline for energy usage (Hoover, 2013). The benefits of this tax have resulted in new revenue for the city of Arcata, driven down the number of illegal grow complaints, and reduced the number of excessive electrical users (Hoover, 2013). The only disadvantage to the implementation of this policy was that the city of Arcata bore the burden on the cost of implementing the new billing system with PG&E. Mayor Wheatley in hindsight has wondered if the city should have waited to join other surrounding communities to implement an excessive electricity user tax rate, so the city would have paid a much lower rate on implementation (Hoover, 2013).

***Local Control and Regulation of Recreational Marijuana.*** Local governments can reasonably regulate, but cannot ban, personal cultivation. The AUMA decriminalizes up to six plants per residence (League, 2016). Reasonably regulating personal cultivation may include requiring local permits to grow marijuana for personal recreational use, restricting outdoor locations, and requiring inspections to ensure compliance. Fees for these permits may address the anticipated costs of enforcement, however, fees set too high may discourage compliance. Thus, there may be an incentive to tap revenue from a marijuana business tax to address the costs of regulating personal cultivation. There is no deadline implicit in the AUMA for enacting personal cultivation regulations (League, 2016).

Unlike the MCRSA, the AUMA does not require the state agency issuing the state licenses to verify local approval of marijuana business before issuance of the annual state license. Some interpretations of the AUMA suggest that lack of an explicit prohibition of a recreational marijuana businesses in a local zoning ordinance may not be considered a de facto prohibition under the "permissive zoning" principle (League, 2016; January 9, 2017). As stated within the League of California Cities January 7, 2019 FAQ, "If a city does not adopt an ordinance expressly banning or regulating non-medical marijuana businesses before the state begins issuing state licenses for nonmedical businesses, a state-licensed non-medical marijuana business will be able to operate within its jurisdiction without local permission or permitting" (League, January 9. 2017).

In the League's April 6, 2017 webinar, speakers expressed concern that if a recreational marijuana business is licensed by the state in a local government before enactment of land use controls, the local government may face legal challenges under takings argument from that business (League, April 6, 2017). However, state licenses will last only one year, and if the new local laws prohibit the business within that year, and the state licensing agency is made aware of this prohibition, then the license should not be re-issued under the AUMA (League, 2016; January 9, 2017). The Bureau of Marijuana Control will begin accepting license applications as early as January 1, 2018.

There are a number of California counties that have either banned or have restricted access to marijuana, a comprehensive listing of all 58 counties current regulations and ordinances can be found at [CannaBusinessLaw.com](http://CannaBusinessLaw.com) (Cannabis Laws by County, 2017). According to Tim Cromartie from the League of Cities, fifteen cities have already enacted ordinances prohibiting cultivation, processing, delivery, dispensaries or some combination thereof (2017).

Under the AUMA, local governments may regulate the types and locations of recreational marijuana businesses, including outright prohibition. This includes dispensaries, cultivators, manufacturers, distributors, transporters, and testing laboratories. Cities may ban deliveries within their jurisdiction; however the city cannot prevent the transport of marijuana through their jurisdiction using public roads (League, 2016). If a city does not prohibit or enact its own regulations on marijuana deliveries the AUMA allows for home deliveries of recreational marijuana (Cromartie, 2017). Allowing for and taxing delivery service is a way a city can obtain revenue from marijuana sales without permitting brick and mortar storefronts. The cities of San Jose and Emeryville have since rescinded their bans on delivery service so they may collect tax revenue from marijuana deliveries (Kendall, 2017).

## ANALYSIS

In this section we provide case studies that discuss current local marijuana taxation activity for representative California counties and cities. We explain how those local governments will tax marijuana and any features of note within their taxation ordinance or campaign relevant to pursuing marijuana taxation as a revenue source for children's funding.

**Humboldt County.** Any city looking to maximize its revenue from marijuana taxes should evaluate its potential revenue from each form of taxation: cultivation, manufacturing, distribution, sale of cannabis goods, and business licensing. Rural areas like Humboldt County, Mendocino County, Trinity County, and other counties in Northern California that are known for cultivation and distribution, taxation policies should focus on these areas. According to Hezekiah Allen, Executive Director of the California Growers Association, Humboldt County has the most comprehensive ordinances with Mendocino and Trinity following closely behind (Houston, 2016).

Our first case study examines how marijuana tax policy was developed and implemented in Humboldt County. The most significant advantage for Humboldt County was that the community already had robust marijuana land use regulations established in their community before developing new policies around taxation. The Humboldt County Board of Supervisors used to their advantage to bring in the appropriate stakeholders to formulate plans around marijuana tax policy. Several community stakeholders were engaged in the development of this measure: the California Growers Association, an organization which preferred a distribution tax over a cultivation tax; the Humboldt Marijuana Advocacy Project, a community organization that had concerns over environmental regulations around marijuana; the Humboldt County Board of Supervisors; and the citizens of Humboldt County. Despite some disagreements surrounding the development of their marijuana tax policy, a commercial cultivation general tax initiative was developed and placed on the ballot in November 2016 as Measure S (Houston, 2016). The ballot question for Measure S was as follows:

**“MEASURE S, Humboldt County Commercial Marijuana Cultivation Measure.** To maintain and improve essential services, including public safety, job creation; crime investigation/prosecution; environmental

cleanup/restoration; children/family mental health; drug rehabilitation; other County services, shall Humboldt County establish a \$1 – \$3 per square foot, based upon type of grow, annual commercial marijuana cultivation tax generating approximately \$7.3 million annually until ended by voters, with all revenue for the county, none for the state, annual audits, and public review (Humboldt County Marijuana Cultivation Tax, Measure S, 2016).”

To garner community support for Measure S prior to the November election, the Humboldt County Board of Supervisors developed a document called the *Facilitator’s Guide to the Humboldt County Budget Roadshow 2017 (see Appendix A)*. The purpose of this guide was to provide the community with a framework around the county budget that included: an overview on service areas and strategies for Measure S revenue, a survey that asked citizens questions around what service areas should be prioritized funding, and it provided individuals with ways to stay engaged in policy process by informing constituents how best to contact their district County Supervisor with any questions about Measure S. This document was an important tool that was utilized by the Humboldt County Board of Supervisors to build enough public support, which ultimately lead Measure S to pass by a nearly 2-to-1 margin, 65.8% (Humboldt County Marijuana Cultivation Tax, Measure S, 2016).

**Los Angeles.** The City of Los Angeles adopted Measure M on March 7, 2017, with new marijuana taxation rates that include a 10% tax on recreational marijuana sales, a 5% tax on medical marijuana sales, and a 1–2% tax on the gross receipts of transportation, testing, research, manufacturing, cultivation, and other commercialization of cannabis (Los Angeles, Ordinance No. 184501, November 7, 2016). The general tax ordinance was approved by 80.45% of the voters, and also included the repeal of the 2013 medical marijuana referendum Proposition D upon adoption of new comprehensive regulations for both medical and non-medical marijuana businesses (Los Angeles, Measure M, 2017). The ordinance also grants priority under the new regulatory system to business compliant with Proposition D and introduces penalties for unlawful cannabis activities.

In July 2016, the county of Los Angeles Board of Supervisors placed a special marijuana tax on the November 2016 ballot intended to fund homeless housing and services, however, the Board removed the tax from the ballot over concerns about the contradiction of supporting formerly unhoused persons who may have

substance abuse issues with funding from marijuana taxation and concern about the difficulty of passing a special tax (LABOS, July 26, 2016; Sewell, July 26, 2016). On February 2, 2017 the Board adopted a temporary moratorium on medical marijuana cultivation; dispensaries are already not permitted in the unincorporated areas (Sewell, February 2, 2016). The Board directed county staff to develop recommendations for the regulation of the cannabis industry along with community stakeholders, including proposed taxation rates (LABOS, February 2, 2017).

**City of Sacramento.** On June 7, 2016 the city of Sacramento considered Measure Y, a special tax of 5% on the gross receipts of marijuana manufacturing and cultivation businesses. With the support of 65.86% of the voters, the special tax measure was only 0.81% short of the necessary 66.67% supermajority. If the measure had passed, revenue from the tax would have been placed into a new children’s fund, separate from the city’s general fund, to be used for “services for children and youth, ages 0-24...[that] promote the positive development of children and youth in their education, career, and life” (Chapter 3.50 of Ordinance No. 2016-0009, 2016). The Ordinance placed onto the ballot by the Sacramento City Council allowed 10% of the revenue to be used for administration of the children’s fund and 5% for the evaluation of services provided with the funds. The remaining 85% of revenues was to be divided such that at least 70% would be received by non-profit organizations. The Measure Y ballot question reads as follows:

“**Measure Y.** To create a funding source dedicated to children and youth services, including homeless and foster youth, shall a 5% business operations tax on gross receipts of marijuana cultivation and manufacturing businesses be imposed, generating revenues potentially in the millions of dollars annually, to be used for children and youth services in the City of Sacramento?”

In November 2010 Sacramento voters approved Measure C, which is a general tax on marijuana businesses of 4% of gross receipts. Until early 2017, dispensaries were the only marijuana businesses permitted in Sacramento. The fiscal year 2016 revenue on the 30 permitted dispensaries was \$4.5 Million. Sacramento is anticipating potentially \$4.8 million at the end of fiscal year 2017 (personal communication with Zarah Cruz,

Program Specialist, Office of Cannabis Policy & Enforcement, May 15, 2017). Councilmember Schenirer anticipated \$5 million in revenue under Measure Y (Schenirer, J. 2016).

As new marijuana businesses are permitted in Sacramento based on changes to land use laws by the City Council, those new businesses are subject to the existing 4% general tax. However, Measure Y would have diverted those general fund revenues from future cultivation and manufacturing businesses into a special fund for children. Other types of marijuana businesses, including dispensaries, would have remained under the 4% general fund tax.

Measure Y was supported in the official voter guide by two formal players, Councilmember Jay Schenirer, the drafter of the Ordinance, and Jessie Ryan, a trustee of the Sacramento City Unified School District. Several informal players who represented non-profit organizations that serve children were also listed as supporters. However, numerous formal players opposed the measure, including two Councilmembers, a former mayor, and a trustee of the adjacent Twin Rivers Unified School District, as well as influential informal players including a retired sheriff, a park commissioner, a former president of the Friends of the Sacramento Public Library, and the local “watchdog” press. Opposition by these respected formal and informal players likely contributed to the failure of the measure (Sacramento, Measure Y, 2016).

During the February 9, 2016 City Council deliberations on whether or not to place the Ordinance onto the June 2016 ballot, concerns raised by Sacramento Councilmembers focused primarily on the fact that, as a special tax, the funds would not be available as the Council deemed necessary (Sacramento City Council, 2017). Councilmembers Harris and Ashby were concerned the funds could not be used for existing city programs or facilities and Councilmember Warren was concerned the funds would not be equitably distributed to the districts from which most of the revenues would arise. In a May 11, 2016 Op Ed in the Sacramento Bee, Councilmember Harris stated that Measure Y “proposes to take revenue from a tax on marijuana cultivation, scheduled to go into the city’s general fund” which he stated would “circumvent our system and sequester money for the special passion of one council member, while hurting broader community needs” (Harris, J. 2016).



Councilmember Schenirer believes the two main reasons Measure Y was unsuccessful are that it was actively opposed by two councilmembers and that some allies, such as the leadership in African American churches did not feel comfortable to publicly promote the measure due to the marijuana stigma (personal communication, May 15, 2017). Joe Devlin, Chief of Staff to Councilmember Schenirer, added that an underfunded voter turnout campaign may have played a role (personal communication, May 12, 2017). Given the small margin of defeat, Devlin believes more mailers to a broader universe of voters combined with phone banking would have led to success. While several non-profit organizations did lend their support on the official ballot, few were able to provide material or labor support to the campaign and some were reluctant to be publicly supportive due to the stigma of marijuana. Schenirer and Devlin did not think the distribution of 70% of the non-administrative funds to nonprofits was an issue focused on by the voters.

Councilmember Schenirer's objective was to create a dedicated funding source for children's programing, and for this reason, a general fund tax with guidance language in the Ordinance would not have achieved the goal. According to Councilmember Schenirer, only 1% of current Sacramento General Fund revenues are spent on children's services. In Devlin's view, to gain the support of police and fire for dedicated children's funding would require those groups to also receive new funding, and to achieve meaningful funding for all groups would require in a tax rate that would not be supported by the industry. Earlier drafts of the Ordinance included a higher tax rate, but it was reduced based on input from the industry explained Schenirer, because with industry opposition the measure would have been outspent.

**San Francisco.** The City and County of San Francisco marijuana regulatory mechanism “emulates” what other states, counties, and cities have established (Theodoulou & Cahn, 2013). San Francisco Cannabis Legalization Task Force (SFCLTF) has been established that involves almost every single formal and informal player whose interests might be affected by AUMA. In addition, SFCLTF heavily relies on research findings across states, counties, and cities to inform its own decision-making on matters related to recreational marijuana.

In 2005, San Francisco Board of Supervisors adopted the Medical Cannabis Act which allows San Francisco to permit and regulate medical cannabis dispensaries allowing the sale of medical marijuana; however, the measure did not include taxation specific to marijuana sales (San Francisco Cannabis Legalization Task Force [SFCLTF], 2016a). In anticipation of legalization of adult-use recreational marijuana at the state level, the San Francisco Board of Supervisors proactively developed a task force to investigate the issues and advise the Mayor, the Board of Supervisors, and other City Departments on cannabis related policies. Ordinance #115-15, adopted in July 2015, established the San Francisco Cannabis State Legalization Task Force (SFCSLTF) (San Francisco Board of Supervisors [SFBOS], 2015). SFCSLTF’s 2016 report ([SFCSLTF], 2016b) points out that formal stakeholders in San Francisco include the Board of Supervisors, Department of Public Health, Fire Department, Police Department, Building Inspection, Planning Department, Entertainment Commission, California Board of Equalization, and the San Francisco Unified School District. Informal stakeholders connected to the task force process include cannabis industry representatives, existing dispensaries, small business owners, individuals who use cannabis for medicinal purposes, individuals with experience working on behalf of business interests, neighborhood association, individual working to advance tourism or hospitality industry, public policy experts working for organizations focused on good public policy, labor union representatives for the cannabis industry, individuals working in entertainment or nightlife industry, SFDPH coordinator, and so forth (SFCSLTF, 2015, pp.5–6).

SFCSLTF developed the following three major guiding principles as theoretical lens to review all the outcomes: 1) youth: design policies and programs that “reduce youth exposure and access to cannabis”; 2)

research: collect/use evidenced based data (scientific data); and 3) illicit market: reduce the illicit market. Youth-related items/proposals fall under "public safety and social environment" (SFCSLTF, 2015).

After the passage of AUMA, San Francisco Mayor Ed Lee issued Executive Directive #16-05 in November 2016 directing relevant staff to draft ordinances by September 1, 2017 to address the implementation of Proposition 64 with a focus on four areas: 1) land use; 2) local licensing; 3) safety; and 4) youth access (Lee, 2016). The focused areas will be developed within the aforementioned guiding principles. The Mayor's directive acknowledges the inter-agency nature of marijuana regulations, and directs coordination of the Directors of Planning Department and Public Health to with other departments, such as Office of Economic and Workforce Development (OEWD), the SF Police Department, and the SF Unified School District, outside experts, as well as SFCSLTF.

The 2016b report by SFCSLTF consists of a collection of research findings and best practices from other cities and states that San Francisco might consider adopting. In December 2016, the SFCSLTF released a final report which focused on 1) public safety and social environment; 2) land use and social justice; and 3) regulation and city agency framework. Specifically, on public safety, the report cites that "cannabis use might impair cognitive functions essential to safe driving," and "legalization of medical cannabis is associated with a decrease in traffic fatalities in some states" (SFCSLTF, 2016b, p. 8). On the topic of youth access and exposure, the report cites research findings that show "cannabis legalization may be associated with an increase in pediatric cannabis exposures. Additional research findings from Colorado and Washington indicate generally that stable cannabis use trends among youth post-legalization, with a decrease in perception of risk in that population" (SFCSLTF, 2016b, p.10). The report also discusses lessons learned from Colorado that indicate a connection between "homelessness, a need for affordable housing, and substance abuse." Colorado Governor John W. Hickenlooper proposed to use "cannabis tax revenue towards building affordable housing and reducing homelessness" (SFCSLTF, 2016b, p.11).

**San Jose.** In 2010 San Jose passed Measure U with 78.33% approval to introduce a general tax of up to 10% on gross receipt of medical marijuana sales. On December 13, 2010, the City Council set the marijuana business tax at 7%, and on June 4, 2013, increased the rate to 10% effective on July 1, 2013 (Doyle, 2013; San Jose Marijuana Tax, Measure U, 2010). The estimated annual revenues generated from medical marijuana business taxes increase steadily from 2011 – 2015 due to the increasing tax marijuana business tax rate. In 2015– 2016, it is estimated the marijuana business tax totals \$9 million (Office of the City Management [OCM], 2015, p. vi-21).

In June, 2016, the San Jose Division of Medical Marijuana Control was created and housed within the Police Department to administer and oversee the Medical Marijuana Program. This division works with the City Manager's Office, City Attorney's Office, Fire, Finance, and the Planning, Building and Code Enforcement Departments. This medical marijuana program regulates: “where medical marijuana collectives can operate; who can operate medical marijuana collectives; and how medical marijuana collectives can operate” (Garcia, 2017).

On Oct 14, 2016 the San Jose City Council adopted an urgency ordinance to temporarily ban recreational use of marijuana to buy enough time to decide whether or not to regulate the new industry and if so, how. (Office of the City Manager of the city of San Jose, 2016; city of San Jose, 2016). The ordinance also prohibited cultivation, processing, manufacture, distribution, testing and sale of non-medical marijuana.

On March 30, 2017, the City Council expressed that it would explore the possibility of allowing “medical marijuana distributors, manufacturers, and testing labs to operate in San Jose and, if so, how many and where.” City Council will host a meeting in June 2017 after updates from the California state regulations. (Garcia, 2017).

The city of San Jose, as of May 13, 2017, does not allow recreational marijuana business operation. On January 3, 2017, the memorandum issued by chief of police, Edgardo Garcia, to the city of San Jose Council and Honorable Mayor, specifically pointed out that Proposition 64 allows local governments to “put in place certain local guidelines and prohibitions.” The only 16 registered collectives are allowed to dispense medical marijuana only to qualified patients. (Garcia, 2017)

**City of Oakland.** The city of Oakland was the first city in California to allow medical marijuana dispensaries. Two years after passage of Proposition 215 in 1996, Oakland adopted Ordinance No. 12076 to support medical marijuana use. (City Council of the city of Oakland, 1998). Oakland was also the first city to adopt marijuana taxation in 2009 with Measure F. On November 2, 2010, Measure V was passed with an approval rate of 70.49%. The measure levied a 5% business tax on medical marijuana businesses, and for recreational businesses, should they become legal, a 10% tax. In 2010, it was estimated that the city would realize \$2.8 million a year in revenues from medical marijuana (city of Oakland Tax on Medical Marijuana, Measure V, 2010]; Ruby, 2012). At the time of this writing, officials within the Oakland Finance Management Agency have not returned calls requesting information on tax revenue under Measure V.

On March 7, 2017 the Oakland City Council adopted new regulations for medical marijuana business licensing consistent with the MCSRA. These regulations (Chapter 5.80 of the Oakland Municipal Code) include “equity permits,” which provide for 50% of medical marijuana and cannabis business permits during the first phase of permitting for people affected by the War on Drugs. Councilmember Desley Brooks, who represents a portion of East Oakland, “spearheaded the equity program to make sure Oakland residents have more control and access to an industry that has been dominated by whites, some of whom are new residents”(Debolt, 2017).

The recently proposed budget for 2017-2019 the city of Oakland includes reserving \$1 million for a yet-to-be-formed Community Advisory Board on sponsoring healthy children programs (funded by Measure HH). Measure HH, a soda tax measure, that Oakland voters approved with a 61.35% support rate on November 8, 2016 will tax one cent per ounce on sugar-sweetened beverages (Oakland, California, Sugar-Sweetened Beverages Tax, Measure HH, 2016). It might be worthwhile to explore the possibility to propose funds generated from taxing marijuana revenues be allocated in a similar format.

**Santa Cruz.** The city of Santa Cruz has been on the forefront of both the legalization and taxation of medical marijuana and is continuing this early adopter trend with a Measure passed in 2016 in preparation for the implementation of AUMA. Medical marijuana use was permitted in the city shortly after the passing of California Proposition 215. Beginning with the passing of Measure L in November 2014, the city has imposed a 7% tax on

gross receipts of cannabis on both medical and non-medical cannabis sales. Futures changes can be made at the discretion of the City Council up to the maximum rate of 10%. The Measure L ballot question was as follows:

**“Measure L.** To protect the quality of life in the city of Santa Cruz and to fund essential city services such as police, fire, emergency response, youth and senior programs, job creation, housing, and environmental protection, shall an ordinance be adopted to impose a tax of no more than 10% (7% when enacted) on gross receipts of cannabis (marijuana) businesses in the city, subject to audits, with all funds staying local.” (City of Santa Cruz, 2014).

This measure, requiring only a simple majority, was passed overwhelmingly with an 82.21% “yes” vote, with tax revenues to be given to the city’s general fund. These revenues, according to the 2016 city of Santa Cruz Financial Reports, were \$155,186 for 2015 and \$309,596 for 2016. These revenues are 150 – 450% higher than the \$66,000 and \$93,000 estimate range included in the 2014 Measure L by the city’s finance director (City of Santa Cruz, 2017; City of Santa Cruz, 2014).

In November 2016, Measure I was passed with an 84.08% “yes” vote. This measure amended Measure L in preparation for AUMA, and although still allocated tax revenue to the city’s general fund, included more specific language of the services that would receive funds: “such services as police, fire, emergency response, parks, street maintenance and pothole repair, libraries, youth and senior programs, economic development and job creation, affordable housing, and other essential city services.” (City of Santa Cruz, 2016). Each of these measures were placed on the ballot by the Santa Cruz City Council and written by city attorney John G. Barisone.

The city of Santa Cruz has been an early adopter of a pro-legalized marijuana stance since the passing of Ballot Measure A in 1992, approved with an 85% yes vote, “establishing a policy which favors the availability of marijuana for medical use”(Local Ballot Measures, 1992). Additionally, informal players seem to play a large role as seen in the large majority of public support for marijuana-related measure and in the media, including editorials in the local paper urging residents to vote yes (Vote Yes On, 2016).

## **RECOMMENDATIONS**

In this section we draw conclusions from the case studies and background analysis to provide recommendations in three areas: 1) an engagement strategy for working with local governments to successfully adopt a marijuana taxation ordinance; 2) lessons learned from other city and county ordinances on structuring a successful taxation strategy; and 3) approaches to encourage that taxation to support children's funding.

***Engagement Strategy for Marijuana Taxation.*** A number of key stakeholders emerged from review of the various cases studies of marijuana taxation ordinances. Individuals within those groups as well as the groups themselves will have a broad range of overlapping and contradicting concerns. Below we have very briefly outlined the key issues or concerns of some of the policy players.

- Statewide marijuana industry advocates, such as CalNORML, California Cannabis Industry Association, CannaBusiness Law, and the California Growers Association, will be concerned about over-taxation driving away legal operations.
- The local city attorney, county district attorney, and police departments might be concerned about increasing crime, violation of Federal law, and enforcement costs.
- Marijuana businesses will be concerned about excessive taxes and unclear or contradictory regulations.
- Local politicians (City Council, Board of Supervisors) will be concerned about the issues described above, as well as the need for general fund revenues and the attitudes within their district and among their key supporters about marijuana.
- The public, including the PTA, school district, local children's service providers, neighbors, churches, and community organizations, will be concerned about exposure of children to drugs and increasing crime, and may be reluctant to support a Measure due to the perception that it is promoting drug use.

Conservative leaning areas are likely not to have marijuana land use regulations or taxation in place. Therefore, it will be important to have representatives of the City Council and law enforcement supportive of the taxation effort. In these areas, an effort should be made to combine marijuana taxation and land use regulation to gain support from the local community and stakeholders. It is not necessary to complete the land use process first, as many cities proposed taxation in anticipation of future local regulations allowing recreational marijuana

businesses (for example Los Angeles and Davis). A land use effort can also serve the purpose of developing stakeholder support for taxation, educating the public and decision makers about the intricacies of the industry, and establishing connections between marijuana use and children that can later support pursuing funding for children's services from taxation. Conservative leaning areas will be more heavily concerned about safety and exposure of children to drugs. It may be effective to promote splitting of future funds between law enforcement, code enforcement, and children's services for prevention education or to promote healthy lifestyles.

Liberal leaning areas may already have medical marijuana regulations and taxation established. As in the case of the city of Sacramento, councilmembers with medical marijuana taxation may view a special tax as a diversion of general fund revenue. Liberal areas are more attuned to issues of equity and social justice and see an opportunity to mitigate some of the past harms drug enforcement has done to their communities (for example Oakland and San Francisco). In these areas creating a connection between the community services for children that could be funded by the tax and the social justice aims of the city leadership may be an approach to seeking funding for children's services.

In all taxation campaigns we recommend the following strategies:

- Recruit formal champion(s) from the City Council/Board of Supervisors.
- Select a tax rate that does not rally the industry in opposition because they will outspend the taxation measure.
- Communicate the nexus between the marijuana taxation and funding children's programming.
- Use this nexus to overcome the social stigma of marijuana within the community leadership, including school and church leadership.
- Pursue a ratio of taxation that mobilizes multiple stakeholders, such as children's services and social equity advocates, or children's services and crime prevention. For instance, San Francisco Marijuana Task force has a social equity component.

Additional suggestions from specific case studies above include:



- Humboldt County: for regions similar to Humboldt County, we recommend that Margarita consider leveraging support from both formal and informal stakeholders during the formulation and development stages of marijuana taxation policy.
- Sacramento: Include funding for city programs and develop relationships with a diverse base of stakeholders.
- City and County of San Francisco: We recommend reaching out to key stakeholders within the SFCSLTF that deals with the subject of youth access and exposure groups, which include Daisy Ozim, Tom McElroy, Fenicia Jacks - SFUSD, Tim Morland, Michelle Aldrich, Thea Selby, Jennifer Garcia (SFCLTF, 2016c). Secondly, we recommend attending social justice and workforce development meetings as they pertain to marijuana tax revenue allocation and Proposition 64 community investment grants (SFCLTF, 2017). Thirdly, Supervisor Cohen Malia has expressed an interest in drafting legislation to address social justice and inequity issues relating to marijuana decriminalization. SFCSLTF will host community meetings on social justice and workforce development on August 9, 2017 and September 10, 2017 before submitting the final recommendations on social justice and workforce development (Pershan, 2016; SFCLTF, 2017). We recommend attend these meetings and connect with Supervisor Cohen.
- City of Oakland: we recommend reaching out to the following two entities and one council member: 1) Oakland Fund for Children and Youth (OFCY): the city of Oakland has set up funding mechanism that directs funds to children's programs. The budget 2017 – 2019 report notes that Kids first Oakland Children's fund gets funded from the General Purpose Fund (GPF) (Equal to 3% of unrestricted revenues) to fund programs for youth and children. (City of Oakland [COO], 2017a; COO, 2017b); 2) Oakland Fund for Children and Youth Planning and Oversight Committee (POC): Mike Wetzel, program planner, 510-238-3242. (COO, 2017c); and 3) Councilmember-at-Large Rebecca Kaplan.

***Lessons Learned on Marijuana Taxation Ordinances.*** In urban metropolitan areas like Los Angeles County and the counties in the San Francisco Bay Area, taxation policies should focus on distribution and sale of cannabis

goods. Urban areas with high costs of living are unlikely to develop large-scale cultivation and manufacturing operations, therefore, potential tax revenue from these sources will be limited.

Cities should consider adopting a per capita formula or a numerical limit on the number dispensaries or other marijuana business types it will allow. Limiting the number of marijuana businesses in the jurisdiction will make it easier for the city to regulate the industry and conduct audits. Cities should have policies in place for receiving and depositing large cash payments. Appropriate security arrangements for payment of annual tax payments need to place, as well as a financial institution that would accept money from marijuana businesses. Most banks are federally regulated but credit unions may be more receptive to accepting payments (Cromartie, 2017, p. 18–24). To address this issue California State Treasurer John Chiang created the Cannabis Banking Working Group (CBWG), comprised of representatives from law enforcement, regulators, banks, taxing authorities, local government and the cannabis industry.

Additional recommendations to local governments include:

- Don't allow so many establishments that you cannot handle the cash flow; develop an auditing system.
- Confirm with your city bank they will accept the marijuana tax; banks used by the city may not want big cash deposits.
- Consider how you will make the cash tax payments secure.
- In your taxation ordinance allow the City Council or Board of Supervisors to amend everything but the tax rate, and allow them to lower the rate without returning to the voters.
- Connect adoption of taxation with a robust community effort on land use regulations. Most cities will not have time to develop their land use regulations but they can put the tax on a special election and through that process commit to the public they will create the accompanying land use regulations soon.
- Don't tax too heavily; it will not deter the black market and you don't get your revenues.

***Marijuana Taxation to Fund Services for Children.*** While a special tax that dedicates revenues for children's services would be the most direct and secure route, special taxes are difficult to pass because of the required 66.67% approval rate and potential for opposition among other city leadership who prefer general taxes.

Some cities could pursue a general tax with a commitment to use the funds for children's services. This could be strengthened through the creation of a subject-based advisory body to hold the Council or Board accountable to this commitment and provide advice on the best use of the funds. There is a risk the city or county will not honor this commitment, especially in tight economic times. This strategy may work best with local governments with a strong track record of establishing community advisory committees and following their advice.

A final approach could be to pursue a general marijuana tax measure with a companion general fund set-aside measure on the same ballot that commits the local government to fund children's services by an amount equal to the marijuana tax. In November 2016 the City of San Francisco proposed Proposition J to set-aside funds for housing and homeless services and Proposition K, to raise city sales tax by 0.75% – 9.25% to raise money for homeless services and the city's transportation network (San Francisco Proposition J, 2017). Unfortunately, the spending Measure passed, but the fund-raising measure failed. (The spending Measure gave the Mayor the authority to terminate one or both funds, based on his review of the city's financial condition.)

Locations where medical marijuana land use regulations are in place, but not taxation, may be municipalities to focus efforts. Local governments will have limited staffing resources available to develop land use and/or taxation regulations. Assisting with technical details regarding the ordinances, mobilization of supporters and by reframing the marijuana stigma could be an effective way to partner with local leadership.

It will also be important to establish a nexus between taxation of medical marijuana and funding children's services by explaining how the services develop kids who make healthy choices. An example is the Berkeley Soda Tax campaign, which draws a clear link between promoting healthy food choices by taxing unhealthy choices (Berkeley vs. Big Soda n.d.). The nexus should create a deeper connection between various children's programs that support their development in order to avoid the funding being constrained to prevention education.

Perhaps one way to convince local governments to spend towards children is that under the Cole Memo, one stipulation is that states and localities have well-regulated systems in place to prevent, among other things,

minors from access or proximity to drugs. Putting tax revenue towards programs that help to educate and keep children safe could help to mitigate the effects of an administration more willing to strictly enforce the federal marijuana laws over state laws.

***Diffusion of Marijuana Taxation Policy in California.*** Although Proposition 64 was not a catastrophic event, it could be viewed as a “focusing event” for local governments to take up the subject of taxation of recreational marijuana (Birkland, 2015, p. 215). Formal players in different cities introduced business taxation measures even before they tackled the question of land use regulations to allow and control those businesses within their jurisdiction.

As the taxation measures spread across the state, an example of “policy diffusion” is at work. According to Shipan and Volden (2012), scholars have identified four main mechanisms of policy diffusion: competition, learning, imitation, and coercion (p. 3). We can see the process of learning among the different municipalities underway with the cities of Santa Rosa with San Francisco compiling and reviewing examples and background related to marijuana taxation policy from other cities and states. Likewise, professional organizations like the League of California Cities are spreading the word through webinars and guidance documents. Borrowing the metaphor of Boushey, marijuana taxation is a disease spreading through the state, and the League is one of the vectors aiding that spread (2017).

With time we will likely see the other mechanism of policy diffusion at work. Coercion includes the use of incentives by one government to affect the policy decisions of another (Shipan and Volden, 2012, p. 4). The voters of California embedded coercive elements into the AUMA by creating an incentive structure for grants distributed through state agencies. This may prove particularly effective with law enforcement, who stand to be recipients of some of the state grant money and are an important local stakeholder often opposed to the decriminalization of recreational marijuana.

Early adopters of the measures may be motivated by competition with one another, particularly in dense geographic areas where their citizens could easily travel to a neighboring city to purchase recreational

marijuana. This competition may help address industry fears that local governments will tax too high to deter the black market.

Government capabilities is an important factors in policy diffusion and also helps explain early adopters (Shipan and Volden, 2012, p. 4–5). Taxation regulations, as well as land use regulations, for marijuana businesses are highly technical and require capacity within the local government staff and formal players to understand, develop and explain the regulations to other decision makers and the public. Smaller towns that lack resources may be fearful of being left out, and could resort to imitation of other cities' policies without properly adapting them to their circumstances (Shipan and Volden, 2012, p. 4).

This is where a well-informed advocacy organization could play a key role in spreading the taxation policies, in particular with formal players. Councilmembers and supervisors will be overwhelmed by the amount of information available on marijuana businesses and taxation policies. They will be lobbied directly by industry advocates seeking to establish a business in their community. They will also be sensitive to the stigma of drug use and fearful of political repercussion by associating with a pro-drug policy. An advocacy organization such as First Five could help buffer that stigma by reframing responsible, regulated drug use as an opportunity to provide needed funding to help young people develop self-esteem and a healthy lifestyle.

Appendix A

Facilitator's Guide to the



## Purpose

The purpose of this Facilitator’s Guide is to support community groups to facilitate conversations with their members about the county budget. We hope that you use this guide as just that—a framework that can be modified to meet the needs and interests of the various groups that will use it.

## Session Preparation Suggestions

As the convener of the budget input session, we suggest you take to following steps to set your session up for success.

1. Choose the date and time for your session. We recommend a session of at least 1 hour in length.
2. Choose a comfortable location that:
  - a. Will hold the size group you believe will attend
  - b. Has small round tables that seat 4–5 people, or has enough space to arrange chairs in a semi-circle and then reconfigure the chairs into small groups
  - c. Has wi-fi and a computer/projector/screen so that you can view an informational video
3. Invite participants.
4. Familiarize yourself with the session agenda and discussion process.
5. Make copies for each participant of the following pages in this guide:
  - a. Session Agenda (modified to include the dates, times specific to your meeting)
  - b. County Budget & Measure S Overview
  - c. Measure S Service Areas and Strategies
  - d. Voting Instructions
  - e. How to Stay Involved and Next Steps in the Budget Process
6. Have refreshments for participants, if possible.
7. Make “Table Templates” for each of the 7 Service Areas



**Sample Detailed Facilitator’s Agenda & Process Tips**

Humboldt County Budget & Measure S Input Session

[Date and Time]

[Location]

Purpose

Gather input from the community on their priorities for how to allocate funds resulting from the passage of Measure S: the local commercial cannabis tax passed in November.

**Desired Outcomes**

By the end of the session participants will have

- A. An increased understanding of Measure S and the county budget
- B. Shared your priorities for Measure S funding. Service area options include:
  - 1. Public Safety;
  - 2. Job Creation;
  - 3. Crime Investigation/Prosecution;
  - 4. Environmental Cleanup/Restoration;
  - 5. Children/Family Mental Health;
  - 6. Drug Rehabilitation;
  - 7. Other County Services.

**Agenda**

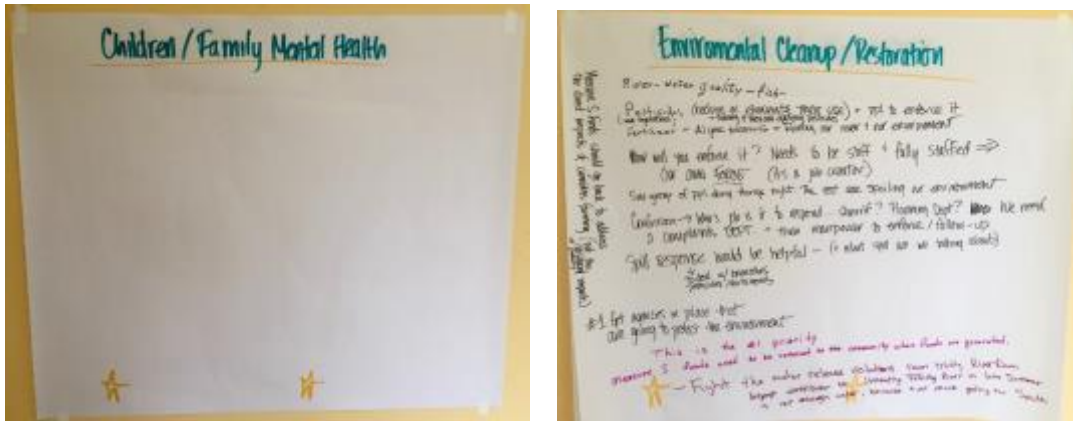
What	Who	When	Facilitator's Notes & Process Tips
<p>Opening</p> <ul style="list-style-type: none"> <li>• Welcome and Introduction</li> <li>• Purpose, outcomes and agenda</li> <li>• Conversation guidelines</li> </ul>	<p>Facilitator</p>	<p>(10 mins)</p>	<ul style="list-style-type: none"> <li>• Welcome people to the meeting</li> <li>• State that you will be facilitating the meeting, meaning you will work to keep the group on task and on time and ensure that everyone is able to participate in the conversation</li> <li>• Review purpose, desired outcomes and agenda.</li> <li>• Review and agree on conversation guidelines for the meeting (See below)</li> </ul>
<p>County Budget and Measure S</p> <ul style="list-style-type: none"> <li>• Watch informational video from Budget Roadshow</li> </ul>	<p>All</p>	<p>(10 mins)</p>	<ul style="list-style-type: none"> <li>• Screen the first 5 minutes of the “Budget Road Show 2017” informational video, located here: <a href="http://www.humboldt.gov/">http://www.humboldt.gov/</a></li> </ul>
<p>Measure S: Service Area Options and Strategies</p> <ul style="list-style-type: none"> <li>• Two small group conversations regarding strategies</li> </ul>	<p>All</p>	<p>(25 mins)</p>	<ul style="list-style-type: none"> <li>• Review the 7 potential service area options (see handout)</li> <li>• Tell participants they will have the opportunity to provide detailed feedback on two option areas in small groups. There will be two rounds of 10-minute conversations.</li> <li>• Ask people to identify the two options they want to consider in small groups and move to the areas/table(s) assigned to that option. If the table(s) are already full, ask them to move to another table with one of their other priority options.</li> <li>• Ask people to review the information about the strategies for the option area they chose (see handout). Then have a conversation with the people at their table about the strategies and other ideas they may have for Measure S funds.</li> <li>• Ask people to make notes about their feedback and ideas on the “table templates” you have prepared in advance for each service area. (See photo on page 6.)</li> <li>• Give people 10 minutes to have their first conversation. Then ask them to move to a new table, and have a second 10 minute conversation.</li> <li>• At the end of the second round, invite people to reconfigure as a large group.</li> </ul>

Where	Who	When	Facilitator’s Notes & Process Tips
<p>Priority Strategies &amp; Service Area</p> <p>Options</p> <ul style="list-style-type: none"> <li>Voting (using smartphones/tablets)</li> </ul>	<p>All</p>	<p>(10 mins)</p>	<ul style="list-style-type: none"> <li>Explain that participants will now have an opportunity to vote on the service areas and the strategies within them.</li> <li>They have two options:</li> <li>They can use their own smartphone/device and enter their votes here: <a href="http://humboldt.gov/1316/Open-Humboldt#peak_democracy">http://humboldt.gov/1316/Open-Humboldt#peak_democracy</a></li> <li>They can use the paper voting ballot (see handout). Collect these after voting and send to CAO’s office via email or mail.</li> </ul>
<p>Close</p> <ul style="list-style-type: none"> <li>Next steps</li> <li>Feedback on the meeting</li> </ul>	<p>Facilitator</p> <p>All</p>	<p>(5 mins)</p>	<ul style="list-style-type: none"> <li>County staff will take the input they’ve received and aims to reflect the community’s priorities when they propose the budget to the Board of Supervisors on June 6. That date, and during the Public Hearings on June 19, are great times for you to attend Board meetings to let them know whether they got it right. The budget is set to be adopted later that month.</li> <li>People are also invited to contact their Supervisors directly, send additional written comments to the CAO’s office, or go online and use the Open Humboldt voting tool. (see handout)</li> <li>Feedback on meeting: You could invite people to share in 2-3 words—what did you like about this meeting and what would you like to see changed?</li> </ul>

**Proposed Conversation Guidelines**

- Listen to understand, first.
- Be succinct
- Share the airtime
- Let people finish their thoughts (i.e., don’t interrupt)
- Encourage everyone to participate
- Stay on topic and on time
- Turn off electronic devices

## Table Templates



Using flip chart (27x34") paper, you can make “table templates” for people to take notes on during their small group discussions. These notes can then be typed up and shared via email to [cao@co.humboldt.ca.us](mailto:cao@co.humboldt.ca.us).

## Additional Process Tips

So what is your most important role as a facilitator of this session? Don't worry about trying to flawlessly facilitate; rather, work to provide a comfortable environment for people to explore what they really think and feel about this topic, and to deepen their understanding of what other people think and feel. Aim to honor the folks that come to the conversation—the risk they may be taking in talking with strangers about this complex issue.

Some people are concerned about managing people that dominate the conversation as well as off-topic, or disruptive situations during sessions. We offer these tips:

- Invite everyone to share in the responsibility for guiding the conversation and to help keep the conversation on track when you go over the conversation guidelines.
- If someone is dominating, disruptive or has found their soapbox, respectfully interrupt the situation, refer to the conversation guidelines and invite everyone to get back on track. You could ask, “Is there anyone we haven't heard from yet?”

- If an area of interest has arisen that has taken the group off topic, ask the group if they would like to set aside the new topic for a separate conversation.

### **Sharing the Results of Your Session with the County**

In order for county staff to incorporate the ideas and priorities from the people in your session, they will need to hear from you!

- After your session, please type and send the “Table Template” notes to [cao@co.humboldt.ca.us](mailto:cao@co.humboldt.ca.us).
- If people use paper ballots, you can scan and email them to [cao@co.humboldt.ca.us](mailto:cao@co.humboldt.ca.us) or mail them to:  
Humboldt County Administrative Office, 825 5<sup>th</sup> Street, Eureka, CA 95501

## Sample Participant Agenda

Humboldt County Budget & Measure S Input Session

[Date and Time]

[Location]

Purpose

Gather input from the community on their priorities for how to allocate funds resulting from the passage of Measure S: the local commercial cannabis tax passed in November.

## Desired Outcomes

By the end of the session participants will have...

- A. An increased understanding of Measure S and the county budget
- B. Shared your priorities for Measure S funding. Service area options include:
  - 1. Public Safety;
  - 2. Job Creation;
  - 3. Crime Investigation/Prosecution;
  - 4. Environmental Cleanup/Restoration;
  - 5. Children/Family Mental Health;
  - 6. Drug Rehabilitation;
  - 7. Other County Services.

**Agenda**

<b>What</b>	<b>Who</b>	<b>When</b>
Opening <ul style="list-style-type: none"> <li>• Introduction</li> <li>• Purpose, outcomes and agenda</li> <li>• Ground rules</li> </ul>	Facilitator/All	x:xx-x:xx (10)
County Budget and Measure S <ul style="list-style-type: none"> <li>• Watch informational video from Budget Roadshow</li> </ul>	All	x:xx-x:xx (10)
Measure S: Service Area Options & Strategies <ul style="list-style-type: none"> <li>• Two small group conversations regarding strategies (10 minutes each)</li> </ul>	All	x:xx-x:xx (25)
Priority Strategies & Service Area Options <ul style="list-style-type: none"> <li>• Voting (using smartphones/paper)</li> </ul>	Facilitator/All	x:xx-x:xx (10)
Close <ul style="list-style-type: none"> <li>• Next steps</li> <li>• Feedback on meeting</li> </ul>	Facilitator/All	x:xx-x:xx (5)

### **Proposed Conversation Guidelines**

- Listen to understand, first.
- Be succinct
- Share the airtime
- Let people finish their thoughts (i.e., don't interrupt)
- Encourage everyone to participate
- Stay on topic and on time
- Turn off electronic devices
- County Budget & Measure S Overview
- "Budget Road Show 2017" informational video: <http://www.humboldt.gov/>

### **COUNTY BUDGET OVERVIEW**

Revenues are currently in line with expenses. This is due to three factors: sales and property taxes are up this year, and third is because of Measure S. However, there are a lot of variables with Measure S. This is a new tax with a new regulatory framework associated with it. The county anticipates having enough money this year to pay its bills but not necessarily enough to repair county facilities and infrastructure.

Some of the challenges the county is currently facing include:

### **AMERICANS WITH DISABILITIES ACT**

A new bill, or expense, the county received this year is the Americans with Disabilities Act (ADA) settlement. This is a settlement with the federal government that states the county has make all of its facilities and services compliant with the ADA. This is incredibly important, but it's also expensive. The full cost of ADA accessibility improvements is still unknown and the county is committed to setting aside money each year to address ADA. If



the county does not comply with the settlement then the Federal government steps in, and things become much more expensive after that.

### **DEFERRED MAINTENANCE**

There is a huge backlog of work that needs to be done on county buildings – from veteran’s halls around the county that need a lot of work, to the Public Defender’s Office that has a leaking roof and windows, to a leaking courthouse roof and much more. More funds need to be put aside to repair the public’s facilities.

### **GENERAL RESERVE**

General Reserves is the county’s Rainy Day fund – it’s what the county uses for emergencies. County policy states that it needs to be at least 8 percent of General Fund revenues, which this year would have been about \$9.4 million. Currently, the rainy day fund is at \$2.32 million.

This is particularly dangerous given the uncertainty the county is facing in the future. Nonpartisan groups are forecasting that California and the country at large should be preparing for a downturn in the economy as soon as 2018. This would directly affect sales and property taxes.

The county receives most of its revenue from the Federal and State governments. If there are significant cuts to spending at either level, it could impact programs the county offers. One example is the Affordable Care Act (ACA). If ACA is repealed, depending on how it happens, the county could end up being on the hook for significant health care expenses for low income folks.

### **Measure S**

#### **Fall 2015**

Medical Cannabis Regulation and Safety Act (MCRSA) signed – Medical cannabis regulations

- Gives local governments taxing authority

#### **November 2016**

Measure S passed – Cultivation tax

Adult Use of Marijuana Act (AUMA) passed – Recreational legalized, keep many MCRSA provisions, including taxation

On the November 8, 2016 ballots, citizens passed Measure S by a 2-to-1 margin. The ballot language they voted on was as follows:

**“MEASURE S, Humboldt County Commercial Marijuana Cultivation Measure.** To maintain and improve essential services, including public safety, job creation; crime investigation/prosecution; environmental cleanup/restoration; children/family mental health; drug rehabilitation; other County services, shall Humboldt County establish a \$1 - \$3 per square foot, based upon type of grow, annual commercial marijuana cultivation tax generating approximately \$7.3 million annually until ended by voters, with all revenue for the County, none for the State, annual audits, and public review?”

**Measure S Structure:**

Commercial cannabis cultivation tax

- \$1/sq foot – Outdoor Grows
- \$2/sq foot – Mixed Light
- \$3/sq foot – Indoor

County can only tax permitted grows. Some estimate there are as many as 10—12,000 grows in Humboldt County, however we can only tax permitted grows. We think we can get about 80 permits processed in FY 17-18, which we estimate would bring in \$2.2 million to the General Fund in FY 17-18.

**Permitting and Collection:**

2,300+ applications received

84 were complete (3.5%)

18 permits issued

(As of Feb. 6)

Billed in March and November

**Grower requirements:**

- 3-page checklist
- 50 items to submit
- Have to complete items in order
- Meet state and local rules

The list of requirements is extensive for cultivators seeking a county permit. If an applicant does not meet a requirement, that item must be fixed in order to move on to the next. In some cases, this can involve meeting regulations of other agencies, and it can involve significant investment.

This is all to say that it takes a significant amount of time and work to permit those involved with this newly regulated industry, so it is important to keep our expectations grounded.

**Summary:**

- Interest in going legit is high
- It will take several years for market and revenue to mature
- Liabilities and questions remain around county obligations and future of cannabis industry
- County must be cautious with spending

**Measure S Service Areas & Strategies**

The Service Areas described in the ballot language like “Public Safety” or “Job Creation” can be offered in a number of ways, which we are calling Strategies. Below are the service area options, and a number of strategies identified by county staff that have a connection to cannabis cultivation and could potentially be funded by revenues generated by Measure S.

**1. Public Safety**

**A. Cannabis permit enforcement**

- Dedicated deputy sheriffs to pursue environmentally damaging illegal marijuana farms within county.

**B. Create sobering facility**

- Create a sobering facility to direct habitual addicts to post law enforcement contact prior to arrest.

**C. Data-driven crime analysis**

- Collecting and analyzing comprehensive crime information that can aid in crime prevention strategies, organizational structure/deployment, and solution based law enforcement practices. Data Driven crime analysis is essential to the Sheriff's approach to community based policing and crime reduction.

**D. Deputy Sheriff team with Mental Health**

- Deputy Sheriffs dedicated to crisis response/intervention would team up with Mental Health to respond, follow-up on cases of criminally mentally ill, and get them connected to helpful services.

**E. Mental Health services for probationers**

- People on adult/juvenile Probation and pretrial release in the community could also benefit from Mental Health services that are not currently being provided to stabilize them so that they don't end up in crisis, having to utilize the County's most expensive services (the emergency room or jail). This is a preventative program.

**2. Job Creation**

**A. Expanding work training, work placement**

- Funding for work training, work experience placement stipends, and/or on-the-job training subsidies for employers interested in hiring criminal offenders. This is a restorative justice practice and is preventative of future criminal behavior.

**B. Nursing Program, recruit health care workers and doctors**

- Working with the education institutions and industry leaders on reinstating a RN-BSN program and recruiting nurses. County Economic Development would also work with industry leaders and other agencies to develop strategic ways to recruit healthcare professionals, make training more accessible locally, expose more youth to healthcare professions and work to identify and address some of the barriers that deter professionals from choosing Humboldt.

**C. Cannabis marketing/branding campaign**

- Develop and work with a cannabis industry group to establish a strategic plan to produce a unified brand for Humboldt.

**D. One-stop business support**

- County Economic Development can become a one-stop business support resource for all business. Examples include expertise and support for recruiting new business, information on tax credits, permitting guidance, and assisting with business expansion, etc.

**3. Crime Investigation/Prosecution**

**A. Pre-trial diversion program**

- Through the District Attorney's Office for stipulated low level/low risk offenders. This is a restorative justice practice, which reduces workload that alleviates pressure on the criminal justice system, generally, by shifting cases that successfully complete requirements away from prosecution to community-based resources without disrupting the pro-social things that offenders have in their favor (like a job).

**B. Investigate illegal cannabis business**

- Help to unravel the LLC companies and determine who is responsible for the cleanup costs when we see illegal and/or environmentally damaging grows.

**C. Seek payments for environmental cleanup and mitigation**

- We need to track and handle restitution and payments for those required to pay for cleanup/mitigation related to cannabis cultivation.

**D. Sheriff's Office Detective assigned to organized crime**

- Following up on organized crime involves special skills and training. This would allow the Sheriff's Office to have a detective dedicated to this important work.

**4. Environmental Cleanup/Restoration**

**A. Code enforcement officer**

- Inspectors and Code Enforcement officers following up on neighborhood complaints.

**B. Spill Response**

- Long-term funding to ensure and enhance current response capability.

**C. Environmental cleanup and restoration funds**

- Would be used for “orphan” spills, when no other funding source exists, to include lab analysis, 3rd party reports on ground/surface water impacts and work plans for cleanup, and cleanup of contaminated sites.

**D. Enforcement via Environmental Taskforce**

- Enforcement funds for the Environmental Task Force (multiple agencies’ staff time, transportation, prosecution) through the District Attorney’s Office.

**5. Children/Family Mental Health**

**A. Prevention of Adverse Childhood Experiences (ACES)**

- Early childhood mental health specialists would support/screen/refer families while in family-friendly environments like free playgroups. Specialists would also consult with child care providers and staff to prevent preschool expulsions, provide better screening and referral for families early, and promote trauma-informed early childhood settings.

**B. Family Resource Center Mental Health Clinicians**

- Dedicate mental health clinicians with expertise in early childhood to work at and with Family Resource Centers, with drop-in or predictable hours for easy family access. This would align with regionalization efforts in communities throughout the county. Early intervention will prevent the problems we see later in the school-age and teen years.

**C. Youth Treatment Programs**

- Expand age-appropriate trauma and alcohol and drug treatment resources for offered by County DHHS-Children and Youth Family Services, to work within the community with high-risk youths (such as youth in foster care or dependency cases). Left unaddressed, trauma and addiction can lead to involvement in the juvenile/adult criminal justice systems so this is preventative.

**D. Fund mental health counseling/services not covered by Medi-Cal or other insurance**

- Mental Health counseling and services for families, students and young children often can only be provided by the county to those who are enrolled in Medi-Cal. This aim of this strategy is to set aside a portion of funds to cover expenses that are not covered by Medi-Cal or other insurance.

**6. Drug Rehabilitation**

**A. Detox and residential drug treatment services**

- Expand the number of types of drug treatment services and facilities available in the county by supporting local community-based organizations that provide residential treatment to clients. The county used to subsidize more residential treatment. Now these non-profit organizations are struggling to stay open. Assistance would enable these local non-profits to upgrade facilities and hire licensed staff, allowing them to become state-certified and leverage additional federal funds under the Drug Medi-Cal program. Expanding drug treatment will also reduce criminal justice costs.

**B. Funding for transitional housing**

- Support transitional housing with case management to further stabilize clients leaving residential drug treatment while they establish themselves in a drug- and crime-free lifestyle.

**C. Increase substance use treatment services in jail**

- Provide support for additional behavioral health specialists to provide drug treatment and co-occurring mental health and trauma recovery services for inmates to begin recovery prior to release.

**D. Dual diagnosis facility**

- Some individuals debilitating mental illness such as bipolar disorder or severe anxiety and at the same time are addicted to drugs or alcohol. A dual diagnosis facility would be a place where they could go to recover from both at the same time.

**7. Other County Services**

**A. Permit processing**

- This would help the county and applicants get through the cannabis permitting process so more businesses could begin legally operating in Humboldt County.

**B. Recruit mental health practitioners**

- Develop strategy to recruit healthcare professionals (i.e., doctors, nurses, social workers, etc.) from all over the state with incentive programs to staff facilities and fill currently empty positions.

**C. Roads**

- Much of the county’s 1,200-plus miles of roads are in poor condition. There are over \$200 million in work that needs to be done to bring these roads back up to an acceptable level.

**D. Rehabilitate homes and rent to low-income or homeless families**

- The agency to work with here is unclear, but the idea is to purchase abandoned or dilapidated homes, have a local contractor use inmates to repair the homes and then rent the homes out to homeless families. It would house people and teach inmates skills for jobs after release.

**Voting Instructions**

The county would like to understand the services that are most important to you. Please use either the following link to take the survey via your smartphone, or utilize the paper ballot below.

[http://humboldt.gov/1316/Open-Humboldt#peak\\_democracy](http://humboldt.gov/1316/Open-Humboldt#peak_democracy)

**Check your top two (2) Strategies from each service area.**

**Strategies**

1. Public Safety
  - Cannabis permit enforcement
  - Create sobering facility
  - Data-driven crime analysis
  - Deputy Sheriff team with Mental Health
  - Mental health services for probationers



2. Job Creation

- Expand work training, work placement
- Nursing program, recruit health care workers and doctors
- Cannabis marketing, branding campaign
- One-stop business support resource

3. Crime Investigation and Prosecution

- Pre-trial diversion program
- Investigate illegal cannabis business
- Seek payments for environmental cleanup and mitigation
- Sheriff detective assigned to organized crime

4. Environmental Cleanup and Restoration

- Code enforcement officers
- Spill response
- Environmental cleanup and restoration funds
- Enforcement via Environmental Task Force

5. Children and Family Mental Health Services

- Adverse Childhood Experiences prevention
- Family Resource Center MH clinicians
- Youth treatment programs
- Fund MH counseling/services not covered by Medi-Cal or other insurance

6. Drug Rehabilitation

- Detox and residential drug treatment services
- Funding for transitional housing
- Increase substance use services in Jail
- Dual diagnosis facility

7. Other County Services

- Permit processing
- Recruit mental health practitioners
- Roads
- Rehabilitate homes and rent to low-income or homeless families

**Circle your top two (2) Service Area options.**

**Service Areas**

1. Public Safety
2. Job Creation
3. Crime Investigation and Prosecution
4. Environmental Cleanup and Restoration
5. Children and Family Mental Health Services
6. Drug Rehabilitation
7. Other County Services

How to Stay Involved & Next Steps in the Budget Process

There are several ways that you can stay engaged. We also invite you to let others know about how they can contribute their ideas and priorities:

- Talk to your County Supervisor

District 1: Rex Bohn [rbohn@co.humboldt.ca.us](mailto:rbohn@co.humboldt.ca.us)

District 2: Estelle Fennell [efennell@co.humboldt.ca.us](mailto:efennell@co.humboldt.ca.us)

District 3: Mike Wilson [Mike.Wilson@co.humboldt.ca.us](mailto:Mike.Wilson@co.humboldt.ca.us)

District 4: Virginia Bass [vbass@co.humboldt.ca.us](mailto:vbass@co.humboldt.ca.us)

District 5: Ryan Sundberg [rsundberg@co.humboldt.ca.us](mailto:rsundberg@co.humboldt.ca.us)

- Twitter: @HumCoGov #HumCo2018
- Add comments to the Open Humboldt Discussion Forum: [humboldt.gov/OpenHumboldt](http://humboldt.gov/OpenHumboldt)

- E-mail to [cao@co.humboldt.ca.us](mailto:cao@co.humboldt.ca.us)
- Attend a meeting:
  - County staff will take the input they've received and aims to reflect the community's priorities when they propose the budget to the Board of Supervisors on June 6. That date, and during the Public Hearings on June 19, are great times for you to attend Board meetings to let them know whether they got it right. The budget is set to be adopted later that month.

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