



OFFICE OF THE  
**COUNTY COUNSEL**

COUNTY OF SAN JOAQUIN  
44 NORTH SAN JOAQUIN STREET, SUITE 679  
STOCKTON, CA 95202-2931  
TELEPHONE: (209) 468-2980  
FAX: (209) 468-0315

**DEPUTY COUNTY COUNSEL:**

LAWRENCE P. MEYERS  
MATTHEW P. DACEY  
KIMBERLY D. JOHNSON  
JASON R. MORRISH  
QUENDRITH L. MACEDO  
ROBERT E. O'ROURKE  
LISA S. RIBEIRO  
ZAYANTE (ZOEY) P. MERRILL  
ERIN H. SAKATA  
KIRIN K. VIRK

**J. MARK MYLES**

COUNTY COUNSEL

**RICHARD M. FLORES**

ASSISTANT COUNTY COUNSEL

**KRISTEN M. HEGGE**

CHIEF DEPUTY COUNTY COUNSEL

**CHILD PROTECTIVE**

**SERVICES COUNSEL:**

(209) 468-1330

DANIELLE DUNHAM-RAMIREZ

SHANN S. KENNEDY

ALISTAIR SHEAFFER

NIKOLAS ARNOLD

July 2, 2018

Board of Supervisors  
44 N. San Joaquin Street, Suite 627  
Stockton, CA 95202

Dear Board Members:

**Adopt a Resolution Repealing Resolution R-18-10 and Adopt a Resolution Calling for an Election to Present to the Voters of the County a Proposed Ordinance Adding Chapter 4 to the San Joaquin County Code Establishing Cannabis Business License Taxes and Ordering Consolidation of Said Election with the Consolidated General Election Called for November 6, 2018 (Countywide) and Modifying the Previously Approved Ordinance Adding Chapter 4 to Impose a County Special Tax on Commercial Cannabis Businesses in the Unincorporated Area of the County of San Joaquin as of January 1, 2019**

**Recommendations:**

It is recommended that the Board of Supervisors:

- A. Approve a modification to the ordinance previously approved on January 23, 2018, adding Chapter 4 to the County Code to impose a County special tax on commercial cannabis businesses in the unincorporated area of the County of San Joaquin.
- B. Adopt a Resolution Repealing R-18-10; and
- C. Adopt a Resolution Calling for an election for the voters of the County to consider adoption of an ordinance imposing a tax on commercial cannabis (marijuana) businesses,

and consolidating that election with the statewide general election to be held on November 6, 2018; and

D. Appoint two members of the Board of Supervisors to the Board of Supervisors ad hoc committee on commercial cannabis and authorize them to sign the argument in favor of the tax measure and any associated rebuttal argument on behalf of the Board of Supervisors.

**Reason for Recommendations:**

On October 24, 2017, Counsel presented the Board of Supervisors with a proposed general Cannabis Tax ordinance. That proposed ordinance allowed for the Board to amend the tax without going back to the voters provided that the amendment did not increase the tax rate above the maximum rate specified. In part it read:

“3-4428 Amendment or repeal. The Board of Supervisors of the County of San Joaquin is authorized to repeal this Chapter 3-4400 without a vote of the people. The Board of Supervisors of the County of San Joaquin is further authorized to amend this Chapter 3-4400 in any manner that does not increase the tax rate above the maximum rate specified for each category of business or otherwise so as to constitute a tax increase for which voter approval is required by Article XIII C of the California Constitution. The people of the County of San Joaquin affirm that the following actions shall not constitute such an increase:”

The Board rejected the general tax and directed staff to prepare a special tax. The tax was redrafted as a special tax allocating revenue to specific uses and was presented to the Board on January 9, 2018. On January 23, 2018, the Board adopted Resolution R-18-10 calling for the election to consider the adoption of the special cannabis tax; unfortunately, the provision in the ordinance allowing for amendment was not modified to align it with the special tax. As a special tax, the provision should have read:

“3-4428 Amendment or repeal. The Board of Supervisors of the County of San Joaquin is authorized to repeal this Chapter 3-4400 without a vote of the people. The Board of Supervisors of the County of San Joaquin is further authorized to amend this Chapter 3-4400 in any manner that does not: (i) alter the uses to which tax proceeds can be devoted under section 3-4429 of this code or (ii) increase the tax rate above the maximum rate specified for each category of business or otherwise so as to constitute a tax

increase for which voter approval is required by Article XIII C of the California Constitution. The people of the County of San Joaquin affirm that the following actions shall not constitute such an increase:”

This change preserves the purposes of the laws governing the adoption and approval of special taxes because it ensures that the funds continue to support the programs approved by the electorate, and requires that changes to identified uses must be approved by the electorate.

**Fiscal Impact:**

There is no fiscal impact resulting from modifying the language as recommended.

**Action to be Taken Following Approval:**

County Counsel will forward the revised language and Resolution to the Registrar of Voters for inclusion on the November General Election ballot.

Very truly yours,



J. Mark Myles  
County Counsel

JMM:kr

c: Board Clerk for Agenda 07/10/2018  
Board of Supervisors  
Sheriff's Office  
District Attorney  
Public Defender  
Office of the Agricultural Commissioner  
Community Development Department  
Environmental Health Department  
Public Health  
Human Services Agency  
Treasurer-Tax Collector  
County Administrator

Reviewed by County Administrator's Office:

Reviewed by County Counsel's Office:



Katie Patterson

6/26/2018



J. Mark Myles, County Counsel

6/26/2018

BEFORE THE BOARD OF SUPERVISORS OF THE COUNTY OF SAN JOAQUIN  
STATE OF CALIFORNIA

RESOLUTION

R-18-104

**Resolution of the Board of Supervisors of the County of San Joaquin, State of California,  
Repealing Resolution R-18-10**

WHEREAS, on January 9, 2018, the Board of Supervisors of the County of San Joaquin considered and approved to submit to the voters the Ordinance adding Chapter 4 establishing Cannabis Business License taxes; and

WHEREAS, the Board of Supervisors of San Joaquin County adopted Resolution R-18-10 on January 23, 2018, and subsequently the proposed ordinance was found to be in error;

NOW, THEREFORE, BE IT RESOLVED that Resolution R-18-10 is repealed.

PASSED AND ADOPTED July 10, 2018, by the following vote of the Board of Supervisors, to wit:

AYES: Villapudua, Miller, Patti, Elliott

NOES: Winn

ABSENT: None

ABSTAIN: None

ATTEST: MIMI DUZENSKI  
Clerk of the Board of Supervisors  
Of the County of San Joaquin,  
State of California

**Robert V. Elliott**

ROBERT V. ELLIOTT, Chair  
Board of Supervisors  
County of San Joaquin  
State of California

By **Mimi Duzenski**

