



SAN BENITO COUNTY AGENDA ITEM TRANSMITTAL FORM

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District No. 3
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District No. 5

Item Number: 2.2

MEETING DATE: 11/26/2024

DEPARTMENT: COUNTY ADMINISTRATION OFFICE

AGENDA ITEM PREPARER: Dulce Alonso

DEPT HEAD/DIRECTOR: Henie Ring

SUBJECT:

BOARD OF SUPERVISORS - H. RING, DEPUTY COUNTY ADMINISTRATIVE OFFICER

Receive presentation on Cannabis voter-approved tax ordinance, compare the tax to other jurisdictions, receive recommendations from ad hoc to exempt cannabis cultivation tax until the next Primary election on June 2, 2026.; and provide staff direction if the Board of Supervisors would like to exempt the cannabis cultivation business from tax and direct staff to amend the ordinance.

SBC File No.: 119

AGENDA SECTION:

REGULAR AGENDA

BACKGROUND/SUMMARY:

On June 6, 2018, SBCC §5.03.170 Article V. Cannabis Business Activities Tax was adopted based on Measure revenue for a cannabis program in unincorporated San Benito County. The Cannabis tax rate for cultivation

Business Type	Minimum
Cultivation	\$3
Distribution*	.5%
Manufacturing	2.5%
Microbusiness**	2.5%
Retailer***	0.5

Laboratory

.5%

*Distribution: Min 2% and Max 4%/ transportation only (0.5%-4%)

**Microbusiness: (Retailer):Min 4% and Max 5% (non-Retailer) Min 2.5% and 3.5%

***Retailer: Delivery-only min .5%-max 3%/ Retailer min 4% max 8%

Per § 5.03.175 TAX IMPOSED, as this was the Cannabis tax enacted by initiative, to modify this ordinance tax outside of the approved range.

The initiative states that the Board of Supervisors could set a tax rate within the voter-approved and need are subject to the minimum and maximum rates. Subsection (I) states that the Board can exempt the can Supervisors can exempt or exclude specific categories of cannabis business activities from the cannabis |

- Link to Cannabis tax: https://codelibrary.amlegal.com/codes/sanbenitocounty/latest/sanbenito_ca/0

San Benito County code, section 5.03.175, outlines tax imposed on cannabis business activities, and sub categories of cannabis business activities from the cannabis business activities tax through an ordinance.

Under Government Code section 53758(c), *also see California Constitution Article XIII section 2 (C).*., rule established after Proposition 218 passed. Generally, new or increased taxes outside the approved range for proving that the fee, levy, charge, or other exaction imposed is not a tax and providing a cost recovery

There are no established cannabis businesses in unincorporated San Benito County. Staff have received remains a barrier to entry. Compared to surrounding jurisdictions, San Benito County has the highest can this is how the County of San Benito Compares:

Business Type	San Benito County	Lake County	County of Santa Cruz	County of San Luis Obispo	County of
Cultivation (indoor)	\$5	\$3 SF per FY	7% GR	6% GR	\$2.13 SF p
Cultivation (mixed-light)	\$5	\$2 SF per FY		6% GR	\$ 1.46 SF
Cultivation (outdoor)	\$3	\$1 SF per FY		6% GR	\$.71 SF pe
Cultivation (nursery)	\$5	\$1 per auth SF		6% GR	\$.71 per ai
Distribution	4 %	0%	0%	6% GR	0%
Manufacturing	4 %	4%	7% GR	6% GR	1.5%
Microbusiness	3.5%	4%		6% GR	
Retailer	3%	4%		6% GR	4.5%

Laboratory	1.25%	1%	0 %	1% GR
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Compared to the County's Cannabis tax rate, the rate that is set is significantly higher. Out of all 58 counties that prohibit business activity in unincorporated areas, and 46% allow cultivation in unincorporated counties. The following table shows the cannabis tax rates for businesses in the unincorporated area, according to data pulled from the [data pulled from California Department of Tax and Fee Administration](#).

- Santa Clara
- Merced
- Fresno
- Madera
- Kings

Next Election

The following primary election is set for June 2, 2026, and the deadline to get anything on the election is 88 days before the election. If the Board of Supervisors chooses to put a measure on the ballot, a resolution requesting an item to be placed, it would need to be adopted by the Board of Supervisors by March 6, 2026.

Ad-Hoc

On May 7, 2024, a Cannabis Ordinance Ad Hoc was created with two boards of supervisors, including Supervisor Scott Smith, to review the current cannabis business program and creating a more business-friendly ordinance to establish in unincorporated areas.

Recommendation from the Ad-Hoc on Cannabis Tax

The recommendation from the ad hoc is to amend the ordinance to add an exemption to the cannabis cultivation tax for businesses that are not in unincorporated areas. The amendment includes a fee to recover the total burden cost of staff responding to the cannabis business (including enforcement, or other staff) having to respond to the business. The Ad hoc recommends an exemption or a fee structure that is more business-friendly. The deadline to get anything on the election is 88 days before March 6, 2026.

RESOLUTION OR ORDINANCE NEEDED FOR THIS ITEM:

No

CONTRACT NEEDED FOR THIS ITEM:

No

RFP AND BID HISTORY:

N/A

LAST CONTRACT AMOUNT OR N/A:

N/A

CONTRACT HISTORY (Describe all amendments and previous contracts):

N/A

STRATEGIC PLAN GOALS: 1. Operational Development & Excellence

No

STRATEGIC PLAN GOALS: 2. Planning And Sustainable Growth

Yes

STRATEGIC PLAN GOALS: 3. Technology

No

STRATEGIC PLAN GOALS: 4. Community Engagement

Yes

STRATEGIC PLAN GOALS: 5. Health & Safe Community

No

BUDGETED:

No

BUDGET ADJUSTMENT NEEDED:

No

SOURCE OF FUNDING:

General Fund

UNFUNDED MANDATE:

No

SBC BUDGET LINE ITEM NUMBER:

N/A

CURRENT FY COST:

N/A

STAFF RECOMMENDATION:

1. Review the presentation on Cannabis voter-approved tax ordinance, compare the tax to other jurisdictions, receive recommendations from ad hoc, and
2. Provide direction if the Board of Supervisors would like to exempt the cannabis cultivation business from tax, provide staff direction, and direct staff to amend the ordinance.

ATTACHMENTS:

Cannabis Tax Presentation BOS

Chapter 5: Cannabis Business Tax Ordinance