



Los Angeles County
Department of Regional Planning



Planning for the Challenges Ahead

November 17, 2016

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Director

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**REPORT ON THE CULTIVATION, MANUFACTURING, LABORATORY TESTING,
AND DISTRIBUTION OF MEDICAL MARIJUANA IN THE UNINCORPORATED
TERRITORY OF THE COUNTY OF LOS ANGELES**

INTRODUCTION

On February 2, 2016, the Los Angeles County Board of Supervisors (Board) directed the Director of Planning, in cooperation with several departments including the Sheriff, Public Health, and Agricultural Commissioner, to undertake a study of the impacts of medical marijuana cultivation, manufacturing, laboratory testing, and distribution in the unincorporated areas of the County and report back to the Board with the results of the study. County Counsel was also instructed to prepare an interim urgency ordinance prohibiting the establishment of medical marijuana enterprises within all zones in the unincorporated areas of the County for an initial period of 45 days.

On April 12, 2016, the Board instructed the Director of Planning, in conjunction with the Department of Agricultural Commissioner/Weights and Measure, District Attorney's Office, County Counsel, Department of Public Health, Sheriff, and Treasurer and Tax Collector, to conduct a zoning study and investigate potential impacts of regulating land uses related to the cultivation, manufacturing, laboratory testing and distribution of medical marijuana in the unincorporated territory of the County of Los Angeles (County), and to provide recommendations for possible zoning ordinance amendments to either regulate or ban such activities.

The Board's action was in response to the California State Legislature's recent adoption of the Medical Marijuana Regulation and Safety Act (MMRSA). MMRSA is comprised of Assembly Bills 266 and 243, and Senate Bill 643, which created the regulatory framework for medical marijuana in the State of California. The recent approval of Proposition 64 by the California electorate led to the expansion of the

scope and participation in this report including the Fire Department, Department of Public Works, and the County Chief Executive's Office (CEO). The cultivation, manufacture/extraction, laboratory testing, distribution, and retail sales of medical and recreational marijuana are referred to as "marijuana enterprises" within this report.

This report responds to the Board's directive by providing the following information on marijuana:

- Legislative Background
- Review of other jurisdictions
- Regulatory history in the County of Los Angeles
- Los Angeles County Departments
- Fiscal Impact

LEGISLATIVE BACKGROUND

Federal Law

Congress approved the Controlled Substances Act (CSA) in 1970. Under the act, marijuana is considered a Schedule I controlled substance, which has no currently accepted medical use, and is viewed as having a high potential for abuse. The CSA made it unlawful for any person to knowingly or intentionally manufacture, distribute, dispense, or possess with intent to manufacture, distribute, or dispense a controlled substance.

The Department of Justice (DOJ), which is responsible for enforcement of the CSA, issued a memo¹ on August 29, 2013 that outlined new guidelines for Federal prosecutors to follow regarding marijuana enforcement. The federal government traditionally relies on states and local law enforcement agencies to address illicit marijuana activity through enforcement of their own narcotics laws. Under the guidelines of the memo, Federal prosecutors would continue to delegate responsibility of enforcement to local jurisdictions, while maintaining their authority to enforce the CSA consistent with the determinations of Congress. Local and State governments have stepped up efforts to request that the Federal government remove the classification of marijuana as a Schedule I drug and permit banking institutions to serve those involved in marijuana enterprises. This pressure is likely to increase now that California voters have legalized recreational use of marijuana.

State Law

In 1996, the Compassionate Use Act (CUA) was enacted for the purpose of "ensur[ing] that seriously ill Californians have the right to obtain and use marijuana for medical purposes" upon a physician's recommendation. The CUA decriminalized the cultivation

¹ <https://www.justice.gov/iso/opa/resources/3052013829132756857467.pdf> -- Guidance Regarding Marijuana Enforcement - James M. Cole, Deputy Attorney General; U.S. Department of Justice

and possession of marijuana, but only for a patient or the patient's primary caregiver where the marijuana is possessed or cultivated for the medical purposes of the patient upon the written or oral recommendation of a physician.

In 2003, the Medical Marijuana Program Act (MMPA) was enacted to clarify the scope and applicability of the CUA, and to "facilitate the prompt identification of qualified patients and their designated primary caregivers in order to avoid unnecessary arrest and prosecution..." and "[e]nhance the access of patients and caregivers to medical marijuana through collective, cooperative cultivation of medical marijuana by qualified patients and their primary caregivers" from certain State criminal sanctions.

MMRSA

In 2015, the Legislature approved and the Governor signed into law three bills (Assembly Bill 243, Assembly Bill 266, and Senate Bill 643) thereby creating the MMRSA, the licensing and regulatory framework for medical marijuana in the State of California. Under MMRSA, local governments may implement additional standards to permit, regulate, or ban medical cannabis businesses in their jurisdictions. MMRSA was changed to the Medical Cannabis Regulation and Safety Act (MCRSA) by Senate Bill 837. Assembly Bill 243 required the Department of Food and Agriculture, the Department of Pesticide Regulation, the State Department of Public Health, the Department of Fish and Wildlife, and the State Water Resources Control Board to promulgate regulations or standards relating to medical marijuana and its cultivation. The bill also requires various state agencies to take specified action to mitigate the impact that marijuana cultivation has on the environment. Cities, counties, and their local law enforcement agencies were directed by the bill to work with state agencies to enforce laws addressing the environmental impacts of regulating medical marijuana and to establish a state-mandated local program.

Under AB 266, the Bureau of Medical Marijuana Regulation was created and established under the supervision and control of the Director of Consumer Affairs, to administer and enforce the provisions of the act. On June 2016, Senate Bill 837 renamed the Bureau of Medical Marijuana Regulation to the Bureau of Medical Cannabis Regulation. State regulators are currently focused on building departmental (staff) resources and creating rules and licensing procedures, with a mandate to begin issuing state licenses by January 2018.

Senate Bill 643 set forth standards for physicians and surgeons prescribing medical cannabis. The bill required the Medical Board of California to prioritize its investigative and prosecutorial resources to identify and discipline physicians and surgeons that repeatedly recommended excessive cannabis to patients for medical purposes, or repeatedly recommended cannabis to patients for medical purposes without a good faith examination.

Summary of CA State Marijuana Legislation

<i>California State Initiatives</i>	<i>Year Approved</i>	<i>Approved By Legislature or Electorate</i>	<i>Medical or Recreational</i>	<i>Description</i>
CUA	1996	Electorate	Medical	Allowed marijuana for medical use
MMPA	2003	Legislature	Medical	Clarified scope and applicability of CUA
MMRSA-AB 243	2015	Legislature	Medical	Required establishment of regulations for medical marijuana
MMRSA-AB266	2015	Legislature	Medical	Created the Bureau of Medical Marijuana Regulation
MMRSA-SB643	2015	Legislature	Medical	Created standards for physicians prescribing medical cannabis
AUMA (Prop. 64)	2016	Electorate	Recreational	Legalized recreational marijuana

AUMA

The Adult Use of Marijuana Act (AUMA), also known as Proposition 64, was approved by the voters of the State of California on November 8, 2016. It legalizes the possession, use, and cultivation of marijuana in California by adults 21 years and older, for recreational purposes. Up to 28.5 grams (i.e. one ounce) of dry marijuana and eight grams of concentrated marijuana may be legally possessed. Per AUMA, counties and cities may regulate marijuana enterprises by requiring them to obtain local licenses, restricting their location, or completely banning marijuana enterprises within their jurisdiction. State licensing authorities shall not approve an application for a state license if approval of the state license will violate the provisions of any local ordinance or regulation. Under Proposition 64, the Bureau of Medical Cannabis Regulation will be converted into the Bureau of Marijuana Control, thereby becoming the state licensing authority for both recreational and medical marijuana commercial enterprises. Two new taxes were created through Proposition 64. The first is a \$9.25 per ounce cultivation tax for flowers and \$2.75 per ounce for leaves, with exceptions for certain medical marijuana sales and cultivation. The second tax is a 15 percent excise tax on the retail sales of recreational marijuana².

AUMA directs the State of California to begin issuing licenses for both existing medical marijuana enterprises and prospective recreational marijuana enterprises beginning January 1, 2018, without requiring those businesses obtain both local and state licenses. However, State licensing authorities will not approve an application for a State license if such issuance will violate the provisions of any local ordinance or regulation. Should the County fail to enact ordinances that either further control marijuana enterprises, or with minor exception for personal use, ban the various types of marijuana enterprises, the State will have authority to issue licenses within the County. However, if the County devises its own local program to ban or regulate and license marijuana enterprises,

² [https://ballotpedia.org/California_Proposition_64,_Marijuana_Legalization_\(2016\)](https://ballotpedia.org/California_Proposition_64,_Marijuana_Legalization_(2016)) – Ballotpedia: The Encyclopedia of American Politics

prospective licensees would first be required to obtain a local license before being granted a state license.

MCRSA, AUMA and Personal Use

Provisions within both MCRSA and AUMA allow for the personal use and cultivation of marijuana. MCRSA allows the cultivation and use of medical marijuana by patients with physician recommendations or a state-issued I.D. Under MCRSA, formerly MMRSA which took effect on January 1, 2016, qualified patients can cultivate up to 100 square feet of marijuana for personal medical use, while primary caregivers with five or fewer patients are allowed to cultivate up to 500 square feet. AUMA, approved by the voters of California, allows the cultivation of up to six plants per single private residence. A private residence is defined in AUMA as a house, apartment unit, mobile home, or other similar dwelling.

Under AUMA, local jurisdictions can ban all outdoor cultivation and reasonably regulate personal indoor cultivation. MCRSA, however, gives local jurisdictions the option of banning all personal cultivation. Regardless of whether the County decides to regulate or ban medical or recreational marijuana enterprises, personal use is and will continue to be permitted under both laws. Local jurisdictions can create minimum standards and guidelines such as requiring the activity be restricted to the inside of a structure, and prohibiting common areas from being used for personal cultivation

REVIEW OF OTHER JURISDICTIONS

Recreational marijuana is currently legal in Alaska, Colorado, Oregon, Washington, and Washington, D.C., while the medical use of marijuana is legal in twenty-five states. This year a total of nine states, including California, had ballot measures which proposed legalizing marijuana for either medical or recreational use. In California, the passage of Proposition 64 legalizes recreational marijuana and hemp under state law. Proposition 64 establishes a 15 percent excise sales tax as well as a cultivation tax of \$9.25 per ounce for flowers and \$2.75 per ounce for leaves, with exceptions for qualifying medical marijuana sales and cultivation.

The following table lists the states with 2016 ballot measures for marijuana, and identifies whether the measures were for medical or recreational marijuana use:

<i>States</i>	<i>Passed or Failed 2016 Ballot Measure to Legalize Medical Marijuana</i>	<i>Passed or Failed 2016 Ballot Measure to Legalize Recreational Marijuana</i>
Arizona	Currently Legal	Failed
Arkansas	Passed	Not on Ballot
California	Currently Legal	Passed
Florida	Passed	Not on Ballot

Maine	Currently Legal	Passed
Massachusetts	Currently Legal	Passed
Montana	Passed	Not on Ballot
Nevada	Currently Legal	Passed
North Dakota	Passed	Not on Ballot

The table below identifies whether medical and recreational marijuana are currently allowed in each of these jurisdictions:

<i>Cities</i>	<i>Allows Medical</i>	<i>Allows Recreational</i>
Denver, CO	Yes	Yes
Seattle, WA	Yes	Yes
Portland, OR	Yes	Yes
Humboldt County, CA	Yes	No

Three cities (Denver, Seattle, and Portland) and Humboldt County were analyzed for their existing requirements on marijuana. Regulations enacted by each of these jurisdictions address the following:

- Minimum age limit to use marijuana
- Licensing requirements for medical marijuana
- Locations where marijuana enterprises are allowed
- Development standards
- Buffering from residential and/or sensitive uses

As demonstrated by the information presented in the following sections, the cities and County of Humboldt share similar requirements. Analyzing these consistencies will help the County of Los Angeles to develop recommendations for potential code amendments, should the Board decide to regulate marijuana enterprises.

Denver, Colorado

Colorado Amendment 64, which became effective in 2012, allowed adults 21 years and older to buy, possess or use up to one ounce of marijuana for recreational use. Selling or providing marijuana to persons under 21 years of age is a crime. It is illegal to consume marijuana in public and to drive while under the influence of marijuana. Penalties for violating marijuana laws range from a fine, jail time, or prison sentence. It is illegal to consume, use, display, transfer, distribute, sell or grow retail marijuana within any park, parkway, mountain park or other recreational facilities, or any city-owned property (including streets and sidewalks). Schools, universities, and employers are allowed to develop their own disciplinary actions for marijuana-related infractions. Licensed medical marijuana patients with a state identification card may possess marijuana in excess of one ounce, when necessary to address a debilitating medical condition. A licensed medical marijuana patient may also grow up to six marijuana plants, with not more than three plants flowering at one time.

In Denver, land uses are regulated based on eight District areas that include Downtown Neighborhood, Suburban Neighborhood, Urban Edge Neighborhood, Urban Neighborhood, General Urban Neighborhood, Urban Center Neighborhood, Industrial, and Open Space districts. These districts are also divided into sub districts, which are used to determine whether a marijuana-related land use requires an administrative review, or a discretionary review with a public hearing. Denver requires a state-issued license in order to establish and operate a marijuana enterprises. The operation of a marijuana enterprises is prohibited within 1,000 feet of a public or private elementary, middle, junior high or high school, and in designated special business districts. Denver permits up to two marijuana enterprises land uses within 1,000 feet of each other, but then requires that any additional licensee's be located more than 1,000 feet of the first two licensee's in the vicinity. Denver's Community Planning and Development Department regulates marijuana zoning and land use while the Business Licensing Center administers licensing and taxation.

Denver has incorporated strict development standards to mitigate many of the negative impacts associated with marijuana-related land uses. One area of special concern is the cultivation of cannabis for personal medical and recreational use. Denver's ordinance directs both medical and recreational cultivation for personal use must be entirely conducted within an enclosed building, and is limited to six plants for each registered card holder or each adult 21 years or older not to exceed 12 plants per dwelling unit. Cannabis grown for personal use inside an enclosed building on a residential property is also prohibited from being manufactured into a marijuana product for the purpose of retail sales.

Seattle, Washington

In Seattle, Washington, marijuana use is legal for medical and recreational purposes. Adults 21 years of age and older can purchase and possess up to one ounce of marijuana for recreational use. Persons between 18 and 21 years of age may be permitted on the premises of a marijuana facility if they are a qualifying patient with a licensed medical marijuana card. Medical marijuana patients 18 years of age and older that register with the State Department of Health may grow up to six plants for personal use, and may purchase up to three ounces of marijuana at licensed retail stores. It is illegal to consume marijuana in public view or to drive while under the influence of marijuana.

Seattle's ordinance defines the production, processing, and selling of marijuana, marijuana-infused products, useable marijuana, and marijuana concentrates as "major marijuana activities." "Major marijuana activities" are prohibited in any dwelling unit (with the exception of a caretaker's unit under certain conditions), regardless of the zone in which the dwelling unit is located. "Major marijuana activities" are generally permitted in Downtown and Industrial zones under specific conditions.

A State license must be obtained in order to establish a "major marijuana activity." The retail sales of marijuana products must be located at a minimum distance of 1,000 feet

from each other, measured by property lines. Retail sales must also be at a minimum distance of 1,000 feet from schools and playgrounds, and a minimum of 500 feet from child care centers, game arcades, libraries, public parks, public transit centers, and recreational centers or facilities.

Portland, Oregon

Portland, Oregon allows the use of marijuana for both medical and recreational uses. Persons 21 years of age and older are allowed to possess up to eight ounces of useable recreational marijuana in their home, and one ounce of useable marijuana outside of their home. Residents may grow up to four plants per residence, out of public view. Driving under the influence of marijuana remains illegal. Registered medical marijuana patients may purchase no more than 24 ounces of usable marijuana per day³.

Land uses regulated by the city include cannabis cultivation, marijuana production, marijuana laboratory/research facilities, and marijuana dispensaries. None of these marijuana land uses may be located in residential zones, or where otherwise not allowed per the city code.

In order to operate a marijuana enterprises, a State license must first be obtained. Development standards require that marijuana dispensaries and retailers be a minimum of 1,000 feet from each other. Marijuana dispensaries must also be at a minimum distance of 1,000 feet from schools.

Humboldt County, California

Humboldt County has adopted regulations to allow the cultivation, processing, laboratory testing, manufacturing, and distribution of medical marijuana. Medical marijuana enterprises are allowed in the Inland Zone and prohibited in the Coastal Zone. Cultivation is permitted in all agricultural zones or zones that permit "General Agriculture" as a principal permitted use, subject to performance standards. Outdoor and Mixed Light cultivation is also allowed in some commercial and industrial zones with a Use Permit.

Medical marijuana enterprises are required to be at a minimum distance of 600 feet from schools. Persons under the age of 18 years are prohibited from the premises unless accompanied by a parent or legal guardian. Marijuana research and testing laboratories are prohibited from operating in conjunction with cultivation, processing, or distributing activities on the premises. Residents growing marijuana for personal use are limited to a maximum area of 50 square feet inside a dwelling unit or detached accessor structure, with crops not to exceed a height limit of 10 feet.

Summary of Zoning Restrictions

Land Use	City	Zones Allowed
CULTIVATION	Denver, CO	Industrial, Open Space
	Seattle, WA	Neighborhood Commercial 2 and 3, Seattle Mixed, Commercial, Downtown Office Core, Downtown Mixed Commercial, General Industrial, Industrial Commercial
	Portland, OR	<i>(Specific Zoning Information Not Available)</i>
	Humboldt County, CA	Agricultural Land, Commercial, Industrial
MANUFACTURING & EXTRACTION	Denver, CO	Commercial Corridor, Mixed Use, Main Street, Residential Mixed Use
	Seattle, WA	Neighborhood Commercial 2 and 3, Seattle Mixed, Commercial, Downtown Office Core, Downtown Mixed Commercial, General Industrial, Industrial Commercial
	Portland, OR	<i>(Specific Zoning Information Not Available)</i>
	Humboldt County, CA	Commercial, Industrial
RETAIL	Denver, CO	Commercial Corridor, Mixed Use, Main Street, Residential Mixed Use
	Seattle, WA	Neighborhood Commercial 2 and 3, Seattle Mixed, Commercial, Downtown Office Core, Downtown Mixed Commercial, General Industrial, Industrial Commercial
	Portland, OR	<i>(Specific Zoning Information Not Available)</i>
	Humboldt County, CA	Commercial, Industrial

REGULATORY HISTORY IN THE COUNTY OF LOS ANGELES

Medical marijuana dispensaries have been banned in the unincorporated territory of the County since 2011. Other medical marijuana land uses (cultivation, manufacturing, laboratory testing, and distribution) are temporarily banned in the County until June 28, 2017, unless the Board adopts additional amendments to the County Code. Prior to the current bans on medical marijuana dispensaries and other medical marijuana enterprises, there were previous efforts to regulate medical marijuana in the County. The following table provides a chronology of past zoning ordinances related to marijuana:

Chronology of L.A. County Marijuana Zoning Ordinances

Date	Ordinance	Description
05/31/05	2005-0042U	<ul style="list-style-type: none"> Interim Urgency Ordinance becomes effective. Established interim moratorium on medical marijuana dispensaries.
05/09/06	2006-0032	<ul style="list-style-type: none"> Ordinance adopted.

		<ul style="list-style-type: none"> Amended Title 22 to regulate medical marijuana dispensaries.
12/07/10	2010-0062	<ul style="list-style-type: none"> Ordinance adopted. Amended Title 22 to ban medical marijuana dispensaries.
02/02/16	---	<ul style="list-style-type: none"> Board directed Director of Planning in cooperation with other county departments, to prepare a zoning study. Directed County Counsel to prepare an interim urgency ordinance prohibiting the cultivation, manufacturing, lab testing, and distribution of medical marijuana in all zones.
03/29/16	2016-0017	<ul style="list-style-type: none"> Ordinance adopted. Amended Title 22 to clarify language pertaining to the ban on medical marijuana dispensaries.
04/12/16	2016-0022U	<ul style="list-style-type: none"> Interim Urgency Ordinance was adopted. Imposed a temporary ban on the cultivation, manufacturing, lab testing, and distribution of medical marijuana for 45 days.
05/24/16	2016-0022U	<ul style="list-style-type: none"> Interim Urgency Ordinance was granted a time extension.
06/28/16	2016-0022U	<ul style="list-style-type: none"> Interim Urgency Ordinance granted a second and final time extension. Interim Urgency Ordinance expires on June 28, 2017.

Urgency Ordinance No. 2005-0042U established a moratorium on medical marijuana dispensaries. A year later Ordinance No. 2006-0032 amended Title 22 to create regulations for the establishment of medical marijuana dispensaries. The purpose of the ordinance was to regulate dispensaries to minimize potential impacts while complying with the Compassionate Use Act and Medical Marijuana Program Act. The ordinance required a discretionary review and approval of a Conditional Use Permit in the C-1 (Restricted Business), C-2 (Neighborhood Business), C-3 (General Commercial), C-M (Commercial Manufacturing), M-1.5 (Restricted Heavy Manufacturing), M-2 (Heavy Manufacturing), and M-4 (Unlimited Manufacturing) zones.

Ordinance No. 2010-0062 amended the ordinance to ban medical marijuana dispensaries in all zones of the unincorporated County. This action was not a repeal of the previous zoning ordinance due to legal challenges brought to the State Supreme Court at that time, hence language was inserted to maintain a CUP requirement should the State Supreme Court declare such bans unconstitutional. The County ban on medical dispensaries remains in effect.

When the Board of Supervisors adopted Ordinance No. 2016-0017, the amendment clarified the scope of the ordinance's application to the medical marijuana dispensaries ordinance in Title 22. The updated language prohibited any person from renting, leasing, or otherwise permitting any property as a medical marijuana dispensary in any zone in the County.

In response to the state legislature approving MMRSA in 2015, Interim Urgency Ordinance No. 2016-0022U imposed a temporary ban on medical marijuana enterprises. The interim ordinance also prohibited the establishment of these uses on all properties located in the unincorporated County. This interim ban was extended twice by Ordinance No. 2016-0027U, and again by Ordinance No. 2016-0031U. This temporary ban on

medical marijuana enterprises will expire on June 28, 2017. It is preferable that the County develop and implement a comprehensive marijuana policy that clearly codifies in Title 22 which activities are banned and/or licensed and regulated locally. Given the lengthy process required for amending the Planning and Zoning Code and the timeframe for when State regulators will begin issuing licenses for marijuana related enterprises, there is urgency in providing direction to County staff. Staff also recommends that prior to the end of the urgency ordinance that bans medical marijuana enterprises, the Board amend Title 22 until such time as a comprehensive set of regulations would be considered.

LOS ANGELES COUNTY DEPARTMENTS

Department of Agricultural Commissioner/Weights and Measures

The Department of Agricultural Commissioner/Weights and Measures (ACWM) will be impacted by the passing of Proposition 64, as ACWM has jurisdictional responsibilities throughout the County to enforce agricultural, pesticide use, and weights and measures laws and regulations, including within any of the 88 cities which may choose to permit cultivation, processing/manufacture, distribution, and sales of cannabis products.

Under State law, County Agricultural Commissioners/Directors (Sealers) of Weights & Measures are responsible for local administration and enforcement of:

- State Agricultural laws & regulations
- State Pesticide Use laws & regulations
- State Weights & Measures laws & regulations

Also under State law, County Agricultural Commissioners and Sealers operate under the supervision and direction of the State's Secretary of Food and Agriculture, Director of the Division of Measurement Standards, and Director of the Department of Pesticide Regulation. It is anticipated that responsibilities for enforcement of cannabis-related laws and regulations and an uncertain, to date, level of administration of licensing activities will fall to local Commissioners/Sealers.

Both MCRSA and AUMA add new responsibilities regarding Cultivator Licensing and establishment, and presumably monitoring of an electronic "Track-and-Trace System." Under this system, each cannabis plant grown for commercial purposes will be assigned a "unique identifier" (an individual alpha-numeric tracking number), and all products harvested and distributed from each individual plant will be tracked throughout the chain of distribution and processing. The purpose of a track-and-trace system is to ensure that marijuana products are not illegally diverted (e.g., to the black market) or misrepresented as to origin, quality, etc. Both the licensing and track-and-trace systems remain under design and development by the California Department of Food & Agriculture (CDFA), and it remains unclear as to what the division of workload between State and County agencies may be employed.

Assessor

The Office of the Assessor assesses all real estate and personal property (businesses, manufactured homes, boats and airplanes) located throughout the County. Tangible property owned, claimed, possessed or controlled in the conduct of a profession, trade or business, including the cultivation, manufacturing, laboratory testing, and distribution of medical marijuana, may be subject to property taxes. In general, Business Personal Property is all property owned or leased by a business except Real Property and Inventory items. The conversion of existing warehouse and industrial space for the cultivation of marijuana and distribution of cannabis products may result in a higher level of expertise and review on the part of appraisal staff. Initially, a minimal impact to Assessor operations is anticipated, but may increase significantly depending on the regulatory requirements and number of business licenses granted by the Board of Supervisors and other municipalities.

District Attorney's Office

The District Attorney's Office protects County residents by prosecuting violent and dangerous criminals. They also prosecute roughly 112,000 less serious crimes known as misdemeanors in the unincorporated areas of the County. Federal laws currently classify marijuana as a Schedule I drug and prior to the passing of the AUMA, the possession and use of marijuana for recreational use was a criminal offense subject to fines and incarceration.

The legalization of recreational marijuana allows persons convicted of possessing or using marijuana, to request a reduction in their jail sentence. In some instances, persons convicted of possessing or using marijuana in amounts less than those allowed by the AUMA, may request removal of specific marijuana-related crimes from their record. Requests for resentencing and removal of records will increase work load and may require additional staffing to process these cases. Amendments to criminal penalties will be made to be consistent with AUMA.

Fire Department

The Los Angeles County Fire Department is responsible for reviewing projects for compliance with the Fire Code, evaluating potential hazards, and responding to emergencies. Marijuana enterprises including cultivation, manufacturing, laboratory testing, and distribution practices must be studied in greater detail to determine potential safety hazards of these businesses and create new Fire Code requirements to address these concerns. The Department will also be impacted by an increase in permits and inspections related to hazardous materials and hazardous waste generation associated with these facilities. Additional studies are needed to determine the likelihood of emergencies from these types of businesses, and whether new equipment and staffing will be required to address these needs.

Public Health

Environmental Health

The Department of Public Health (DPH) is the local enforcement agency for many State agencies. DPH's Division of Environmental Health anticipates performing regulatory oversight in the following areas: 1) permitting/licensing of edible retail or manufacturing facilities; 2) marijuana manufacturing, cultivation, and extraction, including composting and waste management, water resources, and general sanitation such as onsite toilets; and 3) collectives and dispensaries, including the processing of edibles, packaging, labeling, and product retailing. Further, DPH would collaborate with State and other County agencies as needed to address pesticide use, such as during investigations of illnesses due to potential contamination. Clarification from the State will be required to understand which activities under regulation will be held by the State and which will be delegated to the County for enforcement.

Substance Abuse Prevention, Education, and Treatment

Tax revenues from AUMA—after paying for “reasonable costs incurred” by the State agencies with regulatory responsibilities and various other allocations—would be allocated 60 percent to a State sub-trust account for “programs for youth that are designed to educate and prevent substance use disorders and to prevent harm from substance use.” Funds can be used for various purposes that include contracting with counties for the provision of youth prevention and treatment services. DPH may potentially receive funding through this sub-trust account, however it is difficult to anticipate at this time the level of funding that will be available and the increased workload associated with prevention and treatment activities. Furthermore, there is no funding guaranteed for adult prevention, education, and treatment, although the greatest rates of marijuana use and treatment are among adults 18 years of age and up.

Medical Marijuana Program

There may also be workload and revenue impacts on the Department's administration of the State's medical marijuana identification card program (MMIP), which processes applications for medical ID cards. There may be an increased volume of applications for medical marijuana identification cards as a result of excluding medical marijuana retail sales from the requirement of paying State sales tax, and caps on fees for Medi-Cal or indigent patients, may limit revenues that support the program locally.

Monitoring Health Impacts

While information on the health effects of marijuana continues to accumulate, much is unknown. DPH may be required to play a key role in monitoring health impacts within the County to include receiving reports of adverse health effects, conducting investigations of health-related events, monitoring changes in drug use patterns, and remaining informed about the emerging science and other information on the health effects of marijuana. Recognizing and understanding the adverse health effects of marijuana will allow the County to adopt practices and inform consumers of actions that can protect the public's health.

Community Impacts

Marijuana use has important community-level public health impacts, and steps should be taken to mitigate them. Of chief concern are issues related to preventing and controlling drugged driving, restricting youth access and marketing to youth, restricting marijuana cultivation or use in public places, and regulating retail sales. Further, legalization of recreational marijuana may have the effect of normalizing marijuana use and marijuana smoking, which could undermine tobacco and other substance use prevention efforts, unless strong evidence-based prevention methods at the community level are implemented. Legalization may ameliorate the unequal enforcement of marijuana penalty laws, but may also exacerbate certain inequities across communities related to marijuana use. Regulation of marijuana use must prioritize the well-being of disadvantaged communities and ensure that marijuana legalization does not cause greater harm than good to disadvantaged or vulnerable areas in Los Angeles County.

Public Works

Los Angeles County Public Works is responsible for enforcement of the County building codes, as well as, the design, construction, operation, and maintenance of roads, traffic signals, bridges, airports, sewers, flood control, water supply, water quality, and water conservation facilities. Its diverse operations fall within six core service areas: Transportation, Water Resources, Waste Management, Public Buildings, Development Services, and Emergency Management. Public Works is among the many County Departments who would review any new site improvements required to establish and operate marijuana enterprises. They will evaluate projects of this nature using established codes, requirements, and guidelines in their areas of responsibility. The need for additional staffing will depend on whether there is a significant increase in permit applications of this type. New safety protocols for staff are needed to protect their health, safety, and welfare while performing inspections.

Regional Planning

The County has the option of permitting or prohibiting the establishment of medical and recreational marijuana enterprises (cultivation, manufacturing, laboratory testing, and distribution) in all unincorporated areas of the County. However, if the County bans all forms of marijuana enterprises in the unincorporated areas, the ability to impose taxes on those marijuana enterprises would be forfeited. Under MCRSA and the CUA, the public would maintain the right to cultivate and use marijuana for personal use.

If the County decides to ban both medical and recreational marijuana enterprises, the issue of personal cultivation must still be addressed in order to avoid undue impacts on neighboring residences. Licensed patients with a medical marijuana card are legally entitled to grow and use marijuana for their own personal use, as allowed by MCRSA and the CUA. Cultivation of medical marijuana for personal use is currently legal under State laws, yet Title 22 is silent on regulations and standards.

If your Board chooses to permit and regulate marijuana enterprises, amendments to Title 22 of the County Code will be necessary. The Department of Regional Planning will evaluate the various land uses related to marijuana enterprises for consistency with the General Plan and recommend the appropriate zones and provisions that address the impacts and operations related to the specific marijuana enterprises. Per the California Environmental Quality Act (CEQA), an initial study must be conducted to identify the potential impacts of allowing marijuana enterprises. Significant impacts may be mitigated by developing new regulations that address the potential impacts of marijuana enterprises. The process to amend Title 22 requires additional research to develop draft amendments, CEQA analysis, and noticed public hearings before both the Regional Planning Commission and your Board. To be in place by January 1, 2018, this process needs to be initiated now.

Medical and recreational marijuana enterprises can be categorized into six different land use types that include cultivation, manufacturing, laboratory testing, distribution, dispensing of marijuana on a commercial scale, and special events/social consumption:

- 1) *Cultivation* is the propagation, growing, harvesting and curing of marijuana.
- 2) *Manufacturing and/or Extraction* is the processing of harvested marijuana into a refined product (usually an oil, wax or paste) which can be used for making marijuana-infused products such as food and beverages, topical lotions and tinctures, or a wide variety of consumer products.
- 3) *Laboratory Analysis & Testing* is a facility where marijuana is tested for various compounds, including THC intensity levels, pesticides or other harmful residues including molds and toxins. Under both MCRSA and AUMA, laboratory analysis and testing licensees must remain independent of other types of marijuana enterprises licensees.
- 4) *Distribution* includes the procurement, sale, and transport of marijuana and marijuana products between cultivators, manufacturers, and retail locations. Both AUMA and MMRSA preclude distributors from taking marijuana or marijuana products out-of-state.
- 5) *Dispensaries* are retail stores that sells marijuana and marijuana-infused products for either medical or recreational use.
- 6) **Special Events & Social Consumption* are events and venues which allow for the public and/or social consumption of marijuana and marijuana-infused products.

*Neither MCRSA nor AUMA have provisions authorizing special events or social consumption, nor does it compel local authorities to accommodate these types of uses. The evolving legal status of marijuana may increase the desire and demand to host local "420" events and to establish *private or commercial recreation clubs* that host social

consumption of marijuana. Preliminary research disclosed that requests for these types of events and venues have increased once recreational use was legalized in other States.

Each of the six land uses identified above has its own unique impacts. If the Board directs the preparation of an ordinance for permitting recreational and/or medical marijuana, it will be necessary to establish locational criteria, and development and operational standards for each land use. Locational standards may include permitted zoning for the land use (in an industrial, commercial, or agricultural zone), distance from sensitive uses such as schools and residential zones, and distances between marijuana enterprise uses. Policy direction is needed for determining if outdoor cultivation should be prohibited. Staff will also need direction on whether indoor cultivation is appropriate for agricultural zones. Development standards may include items such as building setbacks, location of the front door, lighting and the size of windows, if any, as well as specific signage requirements. Operational standards may include security requirements, hours of operations, air filtration, and other operating requirements.

Two options for permitting marijuana enterprises include a ministerial review and a discretionary review. A ministerial review process requires review at a staff level with no public input or conditions of approval. A discretionary process is subject to a public hearing, requires an initial study for an environmental determination, and is subject to conditions of approval. A discretionary review allows projects to be reviewed on a case-by-case basis with conditions attached to address potential impacts of a project. A ministerial review, however, reviews plans according to a set of development standards that are applied consistently to all projects of a specific land use type. The Department of Regional Planning currently regulates several categories of sensitive land uses including adult businesses and alcohol uses. Experience in drafting and implementing codes for these uses demonstrates that the adoption of a clear set of objective standards that can be implemented administratively is critical to ensuring that negative community impacts are either minimized or eliminated. Experience with a discretionary approval process is best illustrated by the history with medical marijuana dispensaries. Ordinance No. 2006-0032 allowed medical marijuana dispensaries with review and approval of a Conditional Use Permit. Only three applications were filed. However, due to the concerns and public protests received against these projects, none of these applications were approved.

Environmental

The Environmental Protection Agency (EPA) has not approved any pesticides for the cultivation of cannabis due to its classification as a Schedule I drug by the federal government. Chemicals and the storage of hazardous materials used in the growing of cannabis and manufacturing of marijuana-infused products must be further evaluated to determine the feasibility of mitigating impacts or requiring additional health and safety regulations.

Odors, chemical runoff, and other byproducts from marijuana enterprises should be regulated and monitored, however, because there are few guidelines currently available, local governments anticipate that additional information and resources will eventually be made available from the State of California. Under AB 243, California state agencies such as the Regional Water Quality Control Boards and the Departments of Public Health, Fish and Wildlife, Food and Agriculture and Pesticide Control are charged with developing minimum safety and environmental standards for the cultivation, manufacturing and retail sales of marijuana, and will eventually determine if regulatory oversight, and the issuance of permits are required to regulate commercial marijuana enterprises.

Illegal marijuana cultivation sites have shown that there are significant environmental impacts that include diversion of surface waterways, poorly discarded effluent and the overall deterioration of environmental resources and public safety. One of the arguments for changing the legal status of marijuana is that regulating and licensing marijuana cultivation as a legitimate enterprises will establish regulatory standards, and ultimately reduce and possibly eliminate illicit grow sites. Denver has limited cultivation to indoor locations.

Review Procedures

To create a regulatory structure for marijuana enterprises, the Department of Regional Planning will require resources for cost recovery of staffing and services needed before and after new regulations are established. Prior to establishing new marijuana enterprises regulations, the following resources are needed:

- Funding to initiate an environmental study of new requirements, per CEQA
- Dedicated staff to create GIS mapping studies of locational criteria

Marijuana enterprises must obtain approval from both the State and local jurisdictions before they can begin operation. The State will begin issuing licenses for marijuana enterprises on January 1, 2018. The process for establishing new regulations is lengthy, and staff assigned to work on an ordinance to regulate marijuana will be prioritized over other ordinance projects. To develop new regulations that permit or ban marijuana enterprises, staff will need immediate direction from the Board so that the Department of Regional Planning, along with other County Departments participating in this report have the necessary time to study and prepare new ordinances.

The process to adopt an ordinance includes environmental review, communities outreach and noticed public hearings before the Regional Planning Commission and the Board.

Should the Board decide to regulate and tax marijuana, it is recommended that all land uses regarding both medical and recreational marijuana enterprises be banned until permanent marijuana regulations are adopted by the Board. The temporary ban on medical marijuana cultivation and processing terminates on June 20, 2017. A ban will

provide the County with the time needed to study and develop comprehensive regulations for marijuana enterprises that will minimize the potential for negative impacts.

Sheriff's Department

The Los Angeles County Sheriff's Department Narcotics Bureau currently has a Marijuana Dispensary Task Force which consists of one sergeant and four detectives. With the passing of Proposition 64, the Sheriff's Department will require additional personnel, equipment, and training to effectively handle the challenges they expect to encounter. Training is necessary to better identify the symptomology and effects of drivers under the influence of marijuana. Additional training will also be required to assist Sheriff's Department personnel in immediately recognizing THC extraction labs, which pose fire and volatile explosive hazards. Existing laws such as the Vehicle Code will need to be amended, and new laws adopted to bring them into compliance with new State laws and guidelines. Policy, training and procedures will need to be developed which take into account conflicting federal and State marijuana laws. Narcotic-sniffing dogs are currently trained to locate all drugs, including marijuana. These dogs will have to be retrained and possibly retired. New data tracking systems will need to be developed and procedures implemented, or existing systems will need to be modified, to capture and track law enforcement related impacts resulting from legalization of marijuana.

Treasurer and Tax Collector (TTC)

Development of a Business License Framework, Including Business License Fees

Title 7 of the Los Angeles County Code (Title 7) governs the administration of the Business License Program (BLP), which was developed to provide for the protection of the public's safety, health, and general welfare. The County Charter designates the Tax Collector as ex-officio License Collector and as such, the TTC is the administrator of the BLP.

Medical Marijuana

Currently, Title 7 requires a Medical Marijuana Dispensary (MMD) to apply for a business license; however, land use restrictions in Title 22 of the County Code prohibit MMDs from operating in the unincorporated area of the County. If desired, the Board could approve an ordinance removing the current restrictions in Title 22, which would allow MMDs to apply for a business license and operate in the unincorporated area. However, as the County developed the requirements for medical marijuana licensing in June 2006, the code provisions will need to be reviewed and possibly updated. It is also important to note that from 2006 until January 6, 2011, when the County banned MMDs, the TTC did not issue any business licenses to MMDs.

Recreational Marijuana

With the passing of Proposition 64, the Board has the option of licensing the different marijuana enterprises authorized under the law for recreational marijuana (cultivation, transportation, manufacturing, and sale). Should this occur, the TTC needs to develop the licensing framework for each of these marijuana enterprises. This will require the

TTC to collaborate with the State agencies responsible for promulgation of related regulations, other County departments (i.e., the Department of Regional Planning, the Sheriff, Public Works, Public Health, and the Agricultural Commissioner/Weights and Measures), and the marijuana business community. In addition, TTC will need to evaluate the role of TTC License and Field Inspection staff responsible for enforcement of Title 7 when working in partnership with other County departments, such as the Sheriff. Given the particulars of the business license and land use frameworks that the County might establish related to marijuana, the License and Field Inspection staff may play a greater role than they do in other areas. The TTC would then need to conduct fee studies for each of these license activities, and work with County Counsel to draft all related Business License ordinances for Board approval.

Additional Resources/Challenges

Within the last year, the TTC has responded to requests from the Board regarding the expansion of Business License requirements, the establishment of a Business Registration Program, as well as licensing new business lines such as car wash facilities, garment manufacturing, janitorial services and immigration consultants. The Department's Business License staffing resources are insufficient to absorb this incremental workload and without additional resources, the development of a medical or recreational marijuana license program may be compromised. TTC will continue to work with the Chief Executive Office regarding funding options.

Impact of Marijuana Businesses Being "Underbanked"

Because the Drug Enforcement Administration at the Federal level still considers marijuana a Schedule I drug (illegal), even in the states that have legalized medical marijuana, the banks, credit unions and credit card companies are reluctant to provide banking services to legal marijuana enterprises because of the uncertainty from federal regulators, leaving most of these businesses "under-banked", meaning they have access to some but not all standard banking services. The Treasurer and Tax Collector can deposit with its bank various payments from marijuana-related enterprises. Marijuana enterprises are likely to make these payments in a variety of ways, including check, money order or a cash deposit at the TTC's cashiering operation in the Kenneth Hahn Hall of Administration.

Armored Cars

As California has chosen to legalize marijuana, Congress may pass legislation that lifts restrictions. Until then, marijuana-related enterprises will be underbanked and may be paying their taxes in cash. The increase of cash being transacted at the TTC's cashiering operation will present a safety issue. The TTC is exploring several options to limit cash deposits at the Hall of Administration, including the option of including marijuana tax payments as authorized pick-ups for their armored car carriers.

Marijuana Tax

With the passing of the Adult Use of Marijuana Act (AUMA), the Board will have the authority to place a measure on the ballot for voters to approve a local tax on marijuana enterprises. If a tax measure passes, the TTC would need to develop the framework for the reporting and collection of the local taxes under Title 4, and would require additional staffing resources to account for and reconcile tax collections.

FISCAL IMPACT

A comparison of tax rates and revenue generated by the taxation and licensing of medical and recreational marijuana for several states is provided in this report. While there is certainly the potential to earn new sources of revenue, the costs of regulating marijuana, both locally and statewide, is largely unknown. A summary is provided in this report that evaluates the State of Colorado's incurred costs for regulating marijuana.

Statistics from Other States/Cities/Counties

Colorado

Voters of the State of Colorado approved Amendment 64 on November 6, 2012, which legalized the recreational use of marijuana. It was then enacted into law as Article 18, section 16 of the State constitution and went into effect January 1, 2014.

The State of Colorado derives revenue from marijuana enterprises in several ways. There is a 2.9 percent marijuana state retail sales tax, a 10 percent marijuana retail special sales tax and a 15 percent marijuana excise tax, in addition to application and license fees. Additionally, consumers purchasing marijuana within the City of Denver must pay an additional 3.5 percent marijuana local sales tax. However, that data is not reported by the State.

The revenues from each reported period, which is a fiscal year (from July of one year to June of the next year) for Colorado are as follows:

	<i>FY 2013-2014</i>	<i>FY 2014-2015</i>	<i>FY 2015-2016*</i>
State sales Tax (2.9%)	\$ 13,268,876	\$ 22,225,749	\$ 28,797,858
Retail Sales Tax (10%)	\$ 9,023,352	\$ 42,017,797	\$ 61,105,078
Retail Excise Tax (15%)	\$ 3,014,839	\$ 23,995,775	\$ 38,106,308
License & Application Fees	\$ 9,542,769	\$ 14,155,854	\$ 14,207,126
TOTAL	\$ 34,849,836	\$ 102,395,176	\$ 142,218,320

*The FY 2015-2016 data is current through the April 2016 tax figures, remitted in May.

All data available at: <https://www.colorado.gov/pacific/revenue/colorado-marijuana-tax-data>.

Washington

Voters in the State of Washington approved Initiative 502 on November 6, 2012, legalizing recreational use of marijuana for adults 21 years of age and over. Recreational sales began on July 1, 2014. Initially producers, processors, and retailers were subject to an excise tax of 25 percent of revenue. However, since July 2015, only retailers pay the Washington State Liquor Control Board excise tax, which is 37 percent. While the State does charge licensing and application fees, this data is not reported.

Washington has a 24-month fiscal year, from July 1 of an odd year to June 30 of the next odd year. However, its reporting period is akin to a single fiscal year, July-June. The revenues from each reported period, which is a fiscal year (from July of one year to June of the next year) for Washington are as follows:

	FY 2014-2015	FY 2015-2016*
Excise Tax	\$ 64,880,581	\$ 178,770,687

*FY 2015-2016 is current through June 20, 2016.

All data available at: http://www.liq.wa.gov/mj2015/faqs_i-502 and <http://lcb.wa.gov/records/frequently-requested-lists>

Oregon

Voters in the State of Oregon approved Measure 91 on November 4, 2014. Retail sales began on October 1, 2015, though marijuana was not taxed until January 1, 2016. The original initiative called for a rather complex tax system. Legislators replaced it with a 17 percent tax. However, this tax does not go into effect until the new regulatory body is created. During the interim, marijuana is subject to a 25 percent tax.

The State of Oregon collected **\$10.5 million** through April 29, 2016 according to the Department of Revenue's 1st Quarter Financial statement.

<https://olis.leg.state.or.us/liz/201511/Downloads/CommitteeMeetingDocument/90434>

California

Voters of the State of California recently approved Proposition 64 on the November 8, 2016 ballot. Having only recently become legal, and with no known licenses for recreational marijuana enterprises being issued, data on revenues is not yet available. However, medical marijuana is legal within California and while there was no state tax specific to medical marijuana, retail sales are subject to local sales tax of which a cut goes to the State. According to the State Board of Equalization, in 2014 there was \$49.5 million in tax due to the State from medical marijuana sales. While several cities and counties in California have passed measures to tax medical marijuana, there is no available data reporting the revenue from those taxes.

All data available at: <https://www.boe.ca.gov/news/marijuana.htm>

For additional reading on the early effects of the marijuana taxes, please see:
<http://taxfoundation.org/article/marijuana-legalization-and-taxes-lessons-other-states-colorado-and-washington>

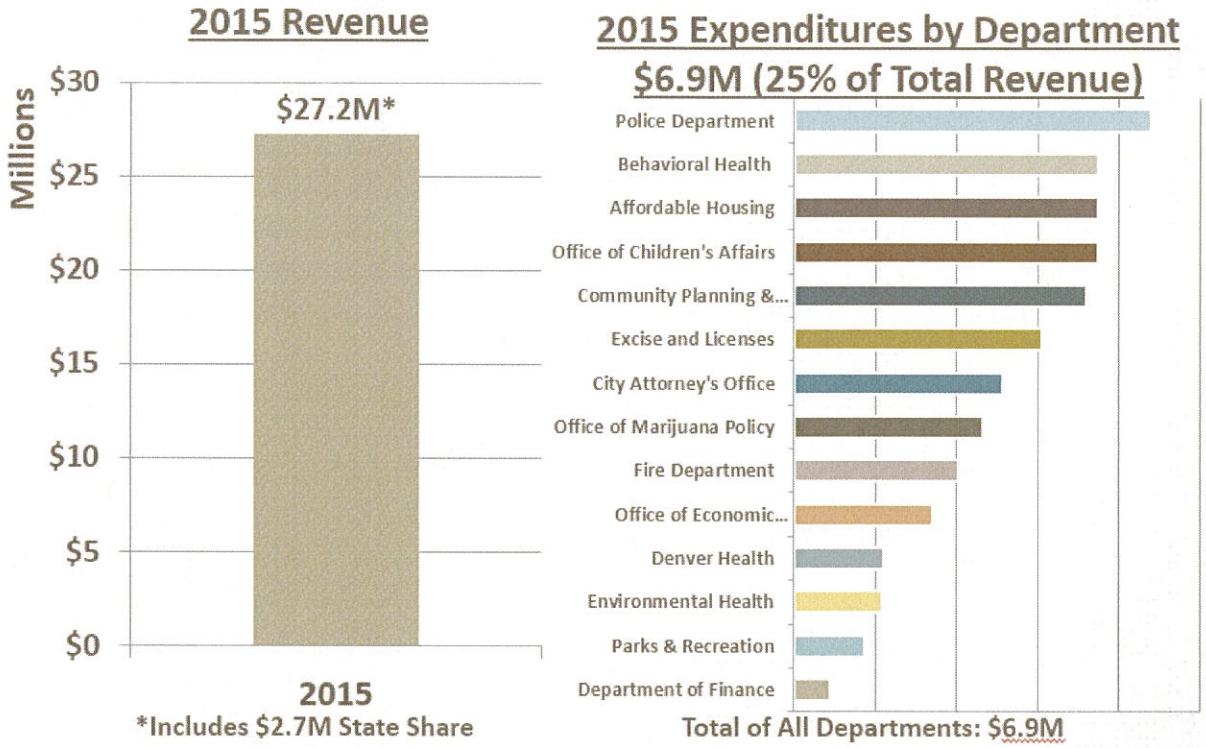
Summary of State Revenues

STATE	Law Enacted/ Tax Effective	Gross Sales	Taxes Imposed	1 st Year Revenue	Recent Revenue
COLORADO	Enacted: Nov. 6, 2012	Unreported	State Sales Tax 2.9%	FY 2013- 2014	Jan.-Mar. 2016
	Effective: Jan. 1, 2014		Retail Sales Tax 10%	\$13,268,876	\$25,505,517
			Retail Excise Tax 15%	\$9,023,352	\$54,160,749
				\$3,014,839	\$32,567,981
			\$25,307,067	\$112,234,247	
		Total			
WASHINGTON	Enacted: Nov. 6, 2012	Fiscal Year 2015 \$260M	Excise Tax 37%	FY 2015	FY 2016
	Effective: July 1, 2014			\$64,880,581	\$185,786,493 (Projected)
OREGON	Enacted: Nov. 4, 2014	Jan.-April 2016 \$42M	State Sales Tax 25% (current but subject to legislative adjustment to 17%)	Jan.-April 2016 \$10,500,000	
	Effective: Jan. 1, 2016				

Colorado:

Revenue/Costs:

Denver, CO: Sample Tax Revenue and Expenditures



CONCLUSION

The information presented in this report:

1. Summarizes new and existing laws for marijuana regulations,
2. Compares marijuana regulations in other cities and counties,
3. Evaluates potential impacts associated with the cultivation, manufacturing, laboratory testing, and distribution of marijuana, and
4. Summarizes revenues and costs from other jurisdictions where medical and recreational marijuana are legal.

If the Board intends to regulate marijuana, it is recommended that they provide concise directives to staff for amending Title 22 as soon as possible in anticipation of state licensing, which begins January 1, 2018. The Board should first decide on a comprehensive marijuana policy that addresses:

- Commercial marijuana enterprises, including the cultivation, laboratory testing manufacturing/extraction, and retail/wholesale distribution of both medical and recreational marijuana,
- Rules pertaining to personal use/cultivation of both medical and recreational marijuana.

A ban of all marijuana enterprises is recommended until such time as the Board provides policy direction toward a comprehensive approach to marijuana cultivation, manufacturing, distribution, and sales for both medical and non-medical use can be enacted. Any proposed amendments to Title 22 (Planning and Zoning) should be consistent with the Countywide General Plan, identify the permissible zones marijuana enterprises are allowed, specify the type of review process that will be required, and provide development and/or performance standards that address potential impacts. If ultimately directed to amend the County Code to allow marijuana uses, per the requirements of the California Environmental Quality Act, an Initial Study will be prepared to evaluate the potential impacts marijuana enterprises could have if regulated.

The recommendations of this report are consistent with the zoning requirements allowed by cities in other States that currently regulate marijuana enterprises. Marijuana may be perceived by some as a non-desirable activity and would face difficult challenges if it required a discretionary review and a public hearing. However, if strong development and performance standards with respect to business operations and practices are adopted, it is possible many of the significant impacts may be mitigated even with a ministerial permit process.

Each Supervisor
November 17, 2016
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If you have any questions, please contact Bruce Durbin of my staff at (213) 974-6432 or BDurbin@planning.lacounty.gov.

Respectfully submitted,

RJB:MC:BD:lj

c: Executive Office, Board of Supervisors
Agricultural Commissioner
Assessor
Chief Executive Office
County Counsel
District Attorney
Public Health
Public Works
Sheriff
Treasurer and Tax Collector

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