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SACHI A. HAMAI
Chief Executive Officer



May 25, 2016

To: Supervisor Hilda L. Solis, Chair
Supervisor Mark Ridley-Thomas
Supervisor Sheila Kuehl
Supervisor Don Knabe
Supervisor Michael D. Antonovich

From: Sachi A. Hamai
Chief Executive Officer

**REVENUE OPTIONS TO ADDRESS HOMELESSNESS CRISIS IN LOS ANGELES COUNTY**

On May 17, the Board of Supervisors (Board) instructed the Chief Executive Officer (CEO) to develop annual revenue projections for all viable revenue options to address homelessness previously provided to the Board, including explaining the methodology used for each option, and research revenue options that do not require additional taxes, and to present a final report at the Board meeting on May 31, 2016.

This memorandum is in response to the Board directive above and supplements revenue information provided to the Board on March 9, and March 30, 2016.

## Estimated Annual Revenue and Methodology for Revenue Options

On March 9, 2016, this Office and County Counsel provided the Board with information on five options to generate ongoing revenue to combat homelessness. On March 30, 2016, this Office provided the Board with estimated annual revenue for three of the five identified revenue options: Transaction and Use Tax (sales tax), Parcel Tax, and Local High Income Tax ("Millionaires' Tax"). Estimated annual revenue for Measure B and the Marijuana Tax options was not provided due to lack of information. The information below supplements information previously provided to the Board by including revenue projections for all five identified revenue options and the methodology used for each. The attached chart summarizes the estimated annual revenue for each option.

### Transaction and Use Tax (sales tax)

- Description: Subject to voter approval, the County has the option to raise the countywide Transaction and Use Tax. Transaction and Use Taxes ("TUTs") are identical to sales taxes in scope and are collected at the same time as sales taxes. TUTs, whether general or specific, are capped at 2% countywide. Currently, for purposes of this cap, the County levies TUTs totaling 1% countywide. However, cities also have the authority to levy their own TUTs, and several cities in the County have done so. Although all TUTs together are subject to the 2% cap, cities which have levied their own TUTs would not lose that income, but would instead receive the revenue from the countywide TUT that they would have received under their own TUT, in the absence of a new countywide TUT. A TUT requires two-thirds approval by the Board (for either a general or special purpose TUT) and either majority approval by the electorate for a general TUT or two-thirds approval for a special purpose TUT.

- Estimated Annual Revenue: $373 Million to $746 Million.

- Methodology: The TUT estimate of $373 million (for a ¼ cent sales tax) and $746 million (for a ½ cent sales tax) is based on the recent countywide sales tax collected by Los Angeles County Metropolitan Transportation Agency, taking into account the small amount that would be credited to the three cities (South Gate, Pico Rivera, and La Mirada) which already have their own 1% TUT. Additionally, the cities of Compton and Long Beach have placed a 1% city TUT on the June 2016 ballot; if either or both of these TUTs are approved, the County's estimated TUT revenue would be reduced accordingly.

**Parcel Tax**

- Description: The County could seek voter approval for a parcel tax tied to countywide functions related to homelessness, such as mental health services and General Relief. Such a measure would be analogous to Measure B, the countywide trauma tax. Majority approval by the Board and an affirmative vote by at least two-thirds of the electorate would be required for passage.

- Estimated Annual Revenue: $272 Million.

- Methodology: The parcel tax estimate was based on revenue from Measure B, since we estimated what the homeless parcel tax revenue would be if the parcel tax were the same as the Measure B tax. Measure B is an annual tax of $.0424 per square foot of improvements on developed property. The actual revenue from a parcel tax would depend on the rate, which could be a flat amount per parcel, or a per square foot rate. The proposed County Parks and Open Space Measure is also a per square foot of improvements parcel tax.

**Local High Income Tax ("Millionaires' Tax")**

- Description: The County is seeking an amendment to State law to authorize counties to seek voter approval to impose a local income tax on the same income which is subject to the Mental Health Services Act (MHSA) tax, i.e. personal income in excess of $1 million per year. This tax would be specifically to combat homelessness and would not be limited to people with mental health conditions. A simple majority vote of the Legislature is required to provide this authority to counties. If the Legislature and Governor grant this authority and a majority of the Board decides to place such an initiative on a countywide ballot, two-thirds approval by the electorate would be required.

- Estimated Annual Revenue: $243 Million.

- Methodology: Estimate calculated by: 1) securing Franchise Tax Board data on the percentage of the statewide Mental Health Services Act (MHSA) tax paid by high-income tax payers in Los Angeles County; 2) applying that percentage to the level of statewide MHSA revenue projected by the State over the next few years, to determine the estimated average MHSA tax over the next few years that will be paid by Los Angeles County taxpayers; and 3) taking 1/2 of that number to estimate what a one-half percent tax on personal income above $1 million would generate (since the MHSA tax is based on 1% of personal income above $1 million/year).

**Redirection of Measure B Revenue**

- Description: Measure B revenue is derived from a special tax on structural improvements located within the County to provide funding for the Countywide System of Trauma Centers, Emergency Medical Services and Bioterrorism Response. According to the Departments of Health Services (DHS) and Public Health (DPH), all Measure B revenue currently allocated to those departments is needed, and any redirection of Measure B revenue would create a deficit in their budgets. Redirection of Measure B revenue would require approval by a majority of the Board to place a measure on the ballot, and two-thirds approval of the electorate.

- Estimated Annual Revenue: $2.05 million for each 1% of Measure B revenue redirected to combat homelessness.

- Methodology: Total Measure B revenue generated per year is $274 million, of which the County receives approximately 75%, which equals $205.5 million per year.

**Marijuana Tax**

- Description: Under the Medical Marijuana legislation enacted in 2015, the County could seek voter approval of a tax on medical marijuana. The County could also seek voter approval of a tax on recreational marijuana, either contingent on legalization of recreational marijuana and associated County taxing authority or subsequent to legalization of, and the extension of, County taxing authority to recreational marijuana. This tax would require two-thirds approval by the Board and a simple majority vote of the electorate if it were not specifically tied to homelessness, and a majority vote of the Board and two-thirds vote of the electorate if it were specifically for homelessness. If the tax were not specifically tied to homelessness, the ballot measure could include a nonbinding, advisory question asking voters if they believed that the resulting proceeds should be used to combat homelessness.

- Estimated Annual Revenue: $1.3 million for each 1% tax on medical marijuana and $6.5 to $11.7 million for each 1% tax on recreational marijuana. The table below shows examples of estimated annual revenues for potential tax rates of 5% and 10% on the sale of medical and recreational marijuana.

| Potential Tax Rate | Estimated Annual Revenue Medical Marijuana | Estimated Annual Revenue Recreational Marijuana |
|---|---|---|
| 5% | $6.5 million | $32.5 to $58.5 million |
| 10% | $13 million | $65 to $117 million |

- Methodology: There is substantial uncertainty in estimating the annual revenue from taxing medical marijuana and/or recreational marijuana.[1] If recreational marijuana is legalized, consumers will choose between purchasing medical marijuana, legal recreational marijuana, or illegal marijuana. It is impossible to predict how consumers would respond to various potential tax rates for medical and/or recreational marijuana. There is additional uncertainty because non-medical marijuana is currently sold on the black market, so there is no precise data on the amount of non-medical marijuana that is currently sold.

  In the context of this uncertainty, here is the methodology used to estimate annual revenue for both medical and recreational marijuana:

  - Medical Marijuana – According to the California Board of Equalization, medical marijuana sales in the County in 2014 were reported to be $131,803,753. Using 2014 County sales as the base, each 1% tax would generate $1.3 million.

[1] A Legislative Analyst Office Report from December 23, 2015 (A.G. File No. 15-0104, Amendment #1) states the following: "The provisions of this measure would affect both costs and revenues for state and local governments. The magnitude of these effects would depend upon (1) how, and to what extent, state and local governments choose to regulate and tax the commercial production and sale of marijuana, (2) future consumption by marijuana users, and (3) the extent to which the U.S. DOJ exercises its discretion to enforce federal prohibitions on marijuana activities otherwise permitted by this measure. Thus, the potential revenue and expenditure impacts of this measure described below are subject to considerable uncertainty." For additional information on the complexities associated with marijuana taxation, see also the recent article at http://taxfoundation.org/article/marijuana-legalization-and-taxes-lessons-other-states-colorado-and-washington.

- Recreational Marijuana - According to California NORML, total marijuana sales in California are estimated to be $3 to $5 billion annually. Since total statewide medical marijuana sales were $570 million in 2014[2], approximately 11% to 19% of total marijuana sales in California are for medical marijuana. Therefore, if all marijuana in California were purchased legally following legalization and the share of medical marijuana sales remained constant, recreational marijuana sales would be 5 to 9 times the amount of medical marijuana sales and a recreational marijuana tax would generate 5 to 9 times $1.3 million/year for each 1% tax.

**Revenue Options That Do Not Require Additional Taxes**

Generally, besides federal and state funding, County revenue sources are limited to: 1) taxes; 2) user fees and charges; 3) fines, forfeitures, and penalties; and 4) licensing, permits, and franchises.

County Counsel has advised that, since the passage of Proposition 26 in 2010, all charges imposed by local government are considered taxes which require voter approval unless the charge qualifies for one of several specified exceptions. Among these exceptions are the following:

- Fees conferring a benefit or privilege, service or product fees, regulatory fees for issuing licenses or permits, investigations, inspections, and audits, and related enforcement activities, and property fees imposed for entrance to or use of government property. These fees are commonly imposed to recover the costs of providing government services or resources. These fees may not generate excess revenue and may only cover the government agency's reasonable costs; otherwise they would be considered a tax under Proposition 26, requiring voter approval. Thus, these kinds of fees cannot be imposed to generate revenue for unrelated programs without voter approval.

- Fines imposed as a result of a violation of law. A review of County-imposed fines could be undertaken to determine if increasing fines might generate additional revenue for homelessness programs. Voter approval is generally not required for the imposition of fines; however, State law may restrict how revenues generated from certain fines are used.

- Property Development Fees. The Mitigation Fee Act authorizes local governments to impose fees on development projects for the purpose of defraying all or a portion of the cost of public facilities related to the development project. There must be a "nexus" between the impact that the development will cause and the purpose of the fee. Also, the amount of the fee must be proportionate to the impacts and offset or mitigate those impacts. A fee study is required to make findings showing the nexus and substantiating

[2]https://www.boe.ca.gov/news/marijuana.htm

the amount of the fee to be collected. A number of jurisdictions in California have adopted mitigation impact fees, also known as "linkage fees," to address affordable housing shortages within their communities. The County could only impose a linkage fee on development within the unincorporated areas. The Department of Regional Planning is currently pursuing a linkage fee nexus study, per the Board's approval of Homeless Initiative Strategy F2 on February 9, 2016. Voter approval is not required for a fee meeting the requirements of the Mitigation Fee Act.

If you have any questions or require additional information, please contact Phil Ansell, Director, Homeless Initiative at pansell@ceo.lacounty.gov or 213-974-1752.

SAH:JJ:FAD
PA:JR:ef

Attachment

c: Executive Office, Board of Supervisors
County Counsel
Health Services
Public Health
Regional Planning

ATTACHMENT

# Countywide Revenue Options to Combat Homelessness
## Estimated Annual Revenue

| Revenue Options | Estimated Annual Revenue |
|---|---|
| Parcel Tax | $272 million |
| Redirection of Measure B Revenue | $2 million for each 1% of redirected revenue |
| Marijuana Tax | <u>Medical</u><br>• 1% - $1.3 million<br>• 5% - $6.5 million<br>• 10% - $13 million<br><br><u>Recreational</u><br>• 1%- $6.5 to $11.7 million<br>• 5% - $32.5 to $58.5 million<br>• 10% - $65 to $117 million |
| Local High Income Tax ("Millionaires' Tax) | $243 million |
| Transaction and Use Taxes (TUT) | • 1/4% - $373 million<br>• 1/2% - $745 million |