



COUNTY OF SONOMA

575 ADMINISTRATION
DRIVE, ROOM 102A
SANTA ROSA, CA 95403

SUMMARY REPORT

Agenda Date: 12/10/2024

To: The Board of Supervisors of Sonoma County

Department or Agency Name(s): Auditor-Controller-Treasurer-Tax Collector, County Administrator's; Office and County Counsel

Staff Name and Phone Number: Erick Roeser, Auditor-Controller-Treasurer-Tax Collector, 707-565-2631, County Administrator's Office and Robert Pittman, County Counsel, 707-565-2421

Vote Requirement: Majority

Supervisorial District(s): Countywide

Title:

Implementation of Measure I (Sonoma County Child Care and Children's Health Sales Tax Measure)

Recommended Action:

- A) Adopt a Resolution making certain findings and authorizing a temporary solution to allow implementation of Measure I-the Sonoma County Child Care and Children's Health Sales Tax Measure approved by the voters in November 2024.
- B) Adopt a Resolution authorizing the Auditor-Controller-Treasurer-Tax Collector to execute agreements with the California Department of Tax and Fee Administration for Implementation of Measure I and adopt a Resolution Authorizing Examination of Sales or Transactions and Use Tax Records.
- C) Authorize and direct the County Executive or designee to enter into an agreement with the City of Sebastopol memorializing the obligations and commitments of the County and the City with respect to the temporary solution to implement Measure I and the City's local sales tax measure, Measure U.
- D) Direct staff and counsel to work with First 5 Sonoma County, the City of Sebastopol, and County's state representatives to seek a Legislative fix to allow full implementation of both Measure I and Measure U.

Executive Summary:

At the November 5, 2024 election, Sonoma County voters approved the initiative Measure I, the Sonoma County Child Care and Children's Health Sales Tax Measure, to implement a quarter-cent (0.25 percent) sales tax countywide; concurrently, City of Sebastopol ("City") voters approved the City sponsored Measure U, to implement a half-cent (0.50 percent) sales tax within the incorporated limits of Sebastopol. Cumulatively, these two voter approved taxes pushed the City over the maximum state sales tax cap of 10.25 percent. Accordingly, the California Department of Fee and Tax Administration ("CDTFA"), the local sales tax administering agency, has informed both the County and the City that it is unable to implement either tax and neither can go into effect until such time as an Attorney General opinion is received regarding which tax to implement or until there is a legislative fix. The CDTFA also informed both the County and the City that if the two jurisdictions can reach an agreement as to how to implement the quarter-cent tax available countywide, the CDTFA could implement both taxes with an operative date of April 1, 2025. Following discussions with the City, the County and City have come to an agreement on how to best implement the quarter-cent tax available to best align with voter intent and provide the maximum public benefit. The agreement, which is that the City will waive collection of the quarter-cent available countywide to allow Measure I to be fully

implemented, and in exchange the County will remit to the City an amount equal to what the City would have received if Measure U was fully implemented citywide, will only be in effect until such time as there is an AG opinion or legislative fix. This temporary solution most closely aligns with voter intent and serves the public interest by ensuring the County and City receive nearly all of the revenue projected for the respective measures. Absent this, both the County and City would receive significantly less tax revenue.

To begin the implementation of Measure I so that the tax can become operative on April 1, 2025, this item requests the Board adopt a Resolution making certain findings and authorizing a temporary solution to allow implementation of Measure I; adopt the necessary Resolutions that are required by the CDTFA to collect the tax and authorizes the Auditor-Controller-Treasurer-Tax Collector to execute the required agreements with the CDTFA; authorizes and directs the County Executive or designee to enter into an agreement with the City to memorialize the obligations and commitments of the County and the City with respect to the temporary solution to implement Measure I and the City's local sales tax measure, Measure U; and direct staffs and counsel to work with First 5 Sonoma County, whose Commission is the Administering Agency for the Measure I tax proceeds fund; the City of Sebastopol, and County's state representatives to seek a legislative fix to allow full implementation of both Measure I and Measure U.

Discussion:

Background

Measure I - Sonoma County Child Care and Children's Health Initiative and Sales Tax

On June 2, 2023, proponents of a quarter-cent (0.25 percent) transactions and use tax ("sales tax") filed with the Sonoma County Registrar of Voters Office a notice of intent to circulate an initiative petition to fund (1) child care, preschool, and early childhood education for low- and middle-income children and families in Sonoma County and (2) the local children's health care safety net, which was titled "Sonoma County Child Care and Children's Health Initiative and Sales Tax" ("Measure I.") Following all necessary steps for an initiative measure as required by state law in Elections code section 91000, et seq, the County Board of Supervisors adopted Resolution No. 24-0035 on February 6, 2024, to formally submit Measure I to the voters of Sonoma County at the November 5, 2024, election ("November Election"). Voters approved Measure I at the November Election with 63% approval. Measure I is levied countywide and is anticipated to raise \$30 million dollars annually to support childcare, early education, and children's health.

Measure U - City of Sebastopol Sales Tax

On July 16, 2024, the Sebastopol City Council voted unanimously to place a half-cent (0.50 percent) local sales tax measure ("Measure U") before the voters of the City of Sebastopol ("City") at the November 2024 election to address the City's budget challenges. Voters approved Measure U at the November election with 72% approval. Measure U is levied only within the incorporated limits of the City and is projected to raise \$1,520,000 annually for the City.

State Sales Tax Cap

The statewide tax rate is 7.25%. State law, codified in Revenue and Taxation code section 7251.1, provides that the combined local tax rate in any county, including cities within the County, cannot exceed two percent. Following the 2017 wildfires in Sonoma County, the County of Sonoma received special legislation in Revenue and Taxation Code section 7292.8 that provides that the County or any city within Sonoma County may impose a local sales tax that exceeds the existing two-percent cap, by up to an additional one percent, provided that

the ordinance proposing such a tax has been approved by the voters prior to January 1, 2026. Cumulatively, the maximum sales tax rate in the county or any city within the county cannot exceed 10.25%.

Temporary Solution to Implement Measure I

With the approval of both the countywide Measure I and the citywide Measure U (collectively, “Measures”), the City’s sales tax will be at 10.50% and will exceed the statutory cap. Accordingly, the California Department of Fee and Tax Administration (“CDTFA”), the local sales tax administering agency, has informed both the County and the City that it is unable to implement either tax and neither can go into effect until such time as an Attorney General (“AG”) Opinion is received regarding which tax to implement or until there is a legislative fix. While the CDTFA is in the process of obtaining an AG Opinion regarding which tax to implement, this process will take at least six months before any direction is received. Therefore, the CDTFA informed both the County and the City that if the two jurisdictions can reach a temporary agreement as to how to implement the quarter cent tax available countywide, pursuant to the CDTFA’s opinion that the quarter-cent available under Revenue and Taxation code section 7251.1 belongs to the City, the CDTFA could implement both taxes. If an agreement is reached, the operative date of the taxes will be April 1, 2025, which is the first day of the calendar quarter commencing more than 110 days after the effective date of both Measures, per Revenue and Taxation code section 7265.

Following the CDTFA’s suggestion to reach an agreement to share the quarter cent tax available countywide, the County and City explored three different options. One option (“Option 1”) is to split the quarter cent equally, to levy Measure I at a one eighth cent tax rate countywide (.125%) and reducing the projected annual tax proceeds from \$30 million to \$15 million, while Measure U would be levied at a rate of three eighths of a cent (0.375%) and proceeds would decline from \$1,520,000 to \$1,140,000 annually. A second option (“Option 2”) is to have the City waive a quarter cent of its half-cent sales tax, and allowing Measure I to be fully implemented countywide in exchange for the County agreeing to transfer the amount collected within the incorporated limits of the City back to the City. This option would reduce Measure I proceeds by only \$760,000 for an annual revenue of \$29,240,000, while making the City whole on their projected revenue under Measure U. Finally, a third option (“Option 3”) is to do nothing and wait for the AG opinion or legislative fix, which would result in neither tax going into effect April 1, 2025. The County, after consulting with staff for the Administering Agency of Measure I, and City agree that Option 2 is most aligned with respective voter intent because it enables the County and City to receive nearly all of the revenue estimated for the respective Measures and therefore allows the most public benefit. The County and City have therefore agreed to proceed in this way.

This item requests the Board adopt a resolution making findings that, pending a permanent fix, Option 2 as outlined above allows both Measures to begin collection in April 2025 and receive the maximum amount of tax proceeds, which most closely aligns with voter intent and allows for the most public benefit (Att A). The resolution will also hold the County Auditor-Controller-Treasurer-Tax Collector and his designees harmless from any and all challenges to the actions directed by the Board to implement this temporary solution.

CDTFA Agreements

In order for the CDTFA to begin the collection and administration of Measure I, the County must enter into certain agreements with the CDTFA. These agreements include:

1. The adoption of the Resolution to Execute Agreement with CDTFA for Implementation of the Local

Transactions and Use Tax (Att. B), which includes execution by the Auditor-Controller-Treasurer-Tax Collector of both the Preparatory Agreement - Agreement for Preparation to Administer and Operate County's Transaction and Use Tax Ordinance and the Administration Agreement - Agreement for State Administration of County Transactions and Use Taxes as attachments A and B to the Resolution, respectively.

2. The adoption of Resolution Authorizing Examination of Sales or Transactions and Use Tax Records. (Att. C)
3. Submittal to the CDTFA of a certified copy of both the Measure I Ordinance (Att D) and the Certification of Final Election Results for Measure I, which election results are being certified on December 10, 2024.
4. Miscellaneous contact forms, a designation letter and an EFT authorization agreement.

This item recommends the Board adopt the Resolution authorizing the Auditor-Controller-Treasurer-Tax Collector to execute agreements with the CDTFA for Implementation of Measure I and the Resolution for Examination of Confidential Records and further authorizing the Auditor-Controller-Treasurer-Tax Collector to execute any other any other necessary documents to proceed with the administration of the tax. Because the temporary solution reached with the City allows Measure I to be fully implemented, the County will not need to enter into new agreements with CDTFA once the permanent fix - whether through an AG opinion or legislative fix - is received.

Agreement with the City of Sebastopol for Implementation of Measure I and Measure U

To memorialize the temporary agreement between the County and the City to implement Option 2 as discussed above, an agreement must be entered into to set forth the respective obligations of both the County and the City. This item authorizes and directs the County Executive or designee to enter into an agreement with the City, in a form approved by County Counsel, to carry out the temporary solution as agreed. The agreement will terminate once there is either an AG opinion or legislative fix.

Legislative Fix

Finally, this item directs staff and counsel to work with First 5 Sonoma County, the City of Sebastopol, and County's state representatives to seek a permanent legislative fix to allow full implementation of both Measure I and Measure U. Possible options include clarification of legislative intent of Revenue and Taxation code section 7292.8 or a sales tax cap increase within the City of Sebastopol limits. Because an AG opinion will take at least six months to receive and it is unclear what the AG opinion will opine, a permanent legislative fix may be the most efficient and certain option to allow full implementation of the Measures.

Strategic Plan:

NA

Racial Equity:

Was this item identified as an opportunity to apply the Racial Equity Toolkit?

No

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Prior Board Actions:

1/9/2024 - The Board of Supervisors accepted the certificate of sufficiency showing the results of the examination of the signatures on the Sonoma County Child Care and Children’s Health Initiative and Sales Tax Petition.

2/6/2024 - The Board of Supervisors adopted Resolution No. 24-0035 and formally submitted Measure I to the Sonoma County Voters at the November 2024 Election.

12/10/2024 - The Board of Supervisors is adopting the resolution accepting the official canvass of the vote for the March 5, 2024, Presidential Primary Election.

FISCAL SUMMARY

Expenditures	FY23-24 Adopted	FY24-25 Projected	FY25-26 Projected
Budgeted Expenses			
Additional Appropriation Requested			
Total Expenditures			
Funding Sources			
General Fund/WA GF			
State/Federal			
Fees/Other			
Use of Fund Balance			
General Fund Contingencies			
Total Sources			

Narrative Explanation of Fiscal Impacts:

N/A

Staffing Impacts:			
Position Title (Payroll Classification)	Monthly Salary Range (A-I Step)	Additions (Number)	Deletions (Number)

Narrative Explanation of Staffing Impacts (If Required):

N/A

Attachments:

Att A- Resolution Making Certain Findings And Authorizing A Temporary Solution To Allow Implementation of Measure I-the Sonoma County Child Care and Children’s Health Sales Tax Measure approved by the voters in

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November 2024.

Att B - Resolution to Execute Agreement with CDTFA for Implementation of the Local Transactions and Use Tax, with attachments:

Exhibit A - Preparatory Agreement - Agreement for Preparation to Administer and Operate County's Transaction and Use Tax Ordinance and the Administration Agreement

Exhibit B - Agreement for State Administration of County Transactions and Use Taxes

Att C - Resolution for Examination of Confidential Records

Att D- The Sonoma County Child Care and Children's Health Sales Tax Measure (Measure I)

Related Items "On File" with the Clerk of the Board:

N/A