



## Legislation Text

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**File #:** 2022-0572, **Version:** 1

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**To:** Board of Supervisors

**Department or Agency Name(s):** Auditor-Controller-Treasurer-Tax Collector

**Staff Name and Phone Number:** Brooke Koop 565-1294

**Vote Requirement:** Majority

**Supervisory District(s):** Countywide

**Title:**

Agreement for Consulting Services with HdL Companies for cannabis compliance services

**Recommended Action:**

- A) Authorize the Auditor-Controller-Treasurer-Tax Collector to execute an agreement with HdL Companies for cannabis compliance services.
- B) Authorize the Auditor-Controller-Treasurer-Tax Collector to amend the agreement for minor changes or additions that do not significantly change the scope of services in a form to be approved by County Counsel in an amount not to exceed the department's delegated authority during the term of the agreement.

**Executive Summary:**

On March 15, 2022, the Board of Supervisors directed the Auditor-Controller-Treasurer-Tax Collector (ACTTC) and the County Administrator's Office (CAO) to analyze the pros and cons of changing the County's cannabis cultivation tax program from taxing based on square footage to a model based on gross receipts. Additionally, the Board approved the use of a consultant to assist with the analysis and development of a recommendation to be brought before the Board for consideration no later than February 2023.

[HdL Companies <https://www.hdlcompanies.com/services/cannabis>](https://www.hdlcompanies.com/services/cannabis) is a public agency revenue management services provider, experienced in the development, implementation and enforcement of cannabis management programs for local governments in California and related services. HdL's business scope includes Cannabis Compliance Services, including tax administration. The Auditor-Controller-Treasurer-Tax Collector recommends engaging the services of HdL Companies to assist with the required analysis and recommendation.

**Discussion:**

On December 13, 2016, the Board adopted Ordinance 6188 imposing a cannabis business tax on commercial cannabis businesses; the commercial cannabis cultivation tax was imposed on a square footage basis. This established Chapter 35 of the Sonoma County Code. On June 13, 2017, the Board adopted Ordinance 6203, amending Chapter 35, setting cannabis business tax rates within the voter-approved maximum rates and establishing certain regulations. The Cannabis Business Tax (Measure A) was passed by voters in the March 7, 2017 special election with 71% voter approval. Measure A laid out a framework for taxation that set maximum allowable rates for all operator types and granted authority to the County to, among other things, specify whether the tax on commercial cannabis cultivation will be imposed on a square footage or gross receipts

basis, and set a tax rate not to exceed the maximum rates established. On August 28, 2018, the Board adopted Ordinance 6241, amending Chapter 35, to make administrative changes. In addition, on March 15, 2022, the Board adopted Ordinance 6374, amending Chapter 35, to temporarily reduce the commercial cannabis cultivation tax rates by 45% starting July 1, 2021 through June 30, 2023 and making administrative changes.

The reduction in cultivation rates was intended to temporarily support local cultivators. If no further action is taken, the cultivation rate reduction will sunset on June 30, 2023, and the previous cultivation rate will be restored, along with the annual Consumer Price Index increase to the tax rate, based on square footage. On March 15, 2022, the Board further directed the ACTTC and CAO to return with a recommendation on whether to transition to a gross receipts taxation model with a proposed effective date of July 1, 2023 or to maintain the current taxation model based on square footage. Staff plans to bring a recommendation to the Board for consideration in February 2023. To determine the best approach to analyze the cannabis tax program and develop a recommendation, the ACTTC did outreach to neighboring counties with cannabis cultivation tax programs utilizing the gross receipts model. ACTTC engaged with these counties in order to gain an understanding of their programs and through these discussions received recommendations to engage HdL Companies as a subject matter expert in cannabis compliance services. The legal cannabis market is still very new and evolving and because of this, a specialized service provider is in the best position to assist the County with the analysis, which will include operator revenue reviews, in order to make the most informed recommendation to the Board. Because HdL Companies is the only provider able to provide these specialized consulting services, a sole source waiver was approved by General Services Purchasing division for this contract, which will be effective through June 30, 2023 and in a not to exceed amount of \$107,000.

**Strategic Plan:**

N/A

**Prior Board Actions:**

01-04-2022 Cannabis Tax Structure Board Discussion and Direction to Staff

01-25-2022 Resolution Extending Due Date for all Cannabis Business Taxes from January 31, 2022 to April 30, 2022 (Resolution No. 22-0012)

03-15-2022 Cannabis Tax Structure Board Discussion and Direction to Staff

04-05-2022 Resolution Extending Due Date for Cannabis Cultivation Taxes from January 31, 2022 and April 30, 2022 to May 31, 2022 (Resolution No. 22-0120)

04-05-2022 Introduction and Waiving of Second Reading of Ordinance Amending Cannabis Business Tax Ordinance (Resolution No. 22-0143)

04-19-2022 Adoption of Ordinance Amending Cannabis Business Tax Ordinance (Ordinance No. 6374)

**FISCAL SUMMARY**

<b>Expenditures</b>	<b>FY 21-22 Adopted</b>	<b>FY22-23 Projected</b>	<b>FY 23-24 Projected</b>
Budgeted Expenses			

Additional Appropriation Requested		\$107,000	
<b>Total Expenditures</b>		<b>\$107,000</b>	
<b>Funding Sources</b>			
General Fund/WA GF			
State/Federal			
Fees/Other			
Use of Fund Balance		\$107,000	
Contingencies			
<b>Total Sources</b>		<b>\$107,000</b>	

**Narrative Explanation of Fiscal Impacts:**

The cost of the contract will be covered with available cannabis tax fund balance.

**Narrative Explanation of Staffing Impacts (If Required):**

N/A

**Attachments:**

HdL Companies Cannabis Consulting Agreement

Exhibit A

Exhibit B

Sole Source Waiver Approval

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

N/A