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**Agenda**

**City Council**

**Financing Authority**

**Housing Authority**

**Public Financing Authority**

**Redevelopment Agency**

**Successor Agency**

**City Hall-Council Chamber**

**915 I Street, 1<sup>st</sup> Floor**

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(916) 808-5163**

**SUPPLEMENTAL MATERIAL**

**For the Meeting of:** February 9, 2016

**Item Number:** **Item 24**

**Title:** **Ordinance for Sacramento Children's Fund  
Ballot Measure**

**Contact Information:** Councilmember Jay Schenirer, District 5, (916) 808-7005

**Description of Change:** **Proposed Ordinance Amendments for Section 2,  
3.50.050 and Section 4, 3.08.208**

**ORDINANCE NO. 2016-xxx**

Adopted by the Sacramento City Council

February \_\_, 2016

**AN ORDINANCE ADDING CHAPTER 3.50 TO THE SACRAMENTO CITY CODE RELATING TO THE CREATION OF A CHILDREN'S FUND; AND AMENDING SECTION 3.08.205 OF, AND ADDING SECTION 3.08.208 TO, THE SACRAMENTO CITY CODE RELATING TO MARIJUANA BUSINESS OPERATIONS TAXES**

BE IT ENACTED BY THE COUNCIL OF THE CITY OF SACRAMENTO:

**SECTION 1**

The City of Sacramento has an at-risk child and youth population. The poverty rate for children under 18 is 29%, compared to 24% for the County of Sacramento. In fiscal year 2014-15, the City spent less than one percent of the General Fund on children and youth services in efforts to address the needs of its younger residents. The City's current resources are inadequate to meet the needs of its children and youth.

**SECTION 2**

Chapter 3.50 is added to the Sacramento City Code to read as follows:

**Chapter 3.50 CHILDREN'S FUND**

**3.50.010 Children's fund established.**

There is established a special fund of the city to be known as the children's fund. All monies received pursuant to section 3.08.208 shall be deposited into the children's fund. The children's fund may also receive monies from other sources.

**3.50.020 Purposes and limitations.**

- A. Monies deposited into the children's fund may be used for:
1. Services for children and youth, ages 0-24, including foster and homeless youth, which services promote the positive development of children and youth in their education, career, and life;
  2. Technical assistance and capacity-building for children and youth service providers that receive monies from the children's fund;

3. City expenses related to the administration of the children's fund. No more than 10% of the annual deposits may be used for this purpose; and

4. Evaluation of the services funded by subsection A.1. No more than 5% of the annual deposits may be used for this purpose.

B. The following entities are eligible to receive funding pursuant to subsections A.1 and A.2:

1. City departments that provide services for children and youth; and

2. Tax-exempt organizations under United States Internal Revenue Code section 501(c)(3) that provide services to children and youth. These tax-exempt organizations shall receive at least 70% of the monies remaining after the appropriations under subsections A.3 and A.4.

### **3.50.030 Administration.**

The city manager shall administer the children's fund consistent with this chapter and prescribe procedures for that purpose, subject to city council approval. The city shall appropriate monies from the children's fund according to its established planning and budget processes.

### **3.50.040 Annual evaluation.**

Commencing on January 1, 2018, and annually thereafter, the city manager shall report to the city council on the status of activities undertaken with the children's fund. The city manager shall ensure services paid for by the children's fund are evaluated on a regular basis.

### **3.50.050 Non-replacement of existing city funding.**

A. Monies from the children's fund shall not replace monies from the city's general fund allocated for children and youth services in the adopted fiscal year 2016-2017 budget. For purposes of this section, that amount is the "maintenance of effort amount."

B. Prior to March 1, 2017, the city manager shall determine the maintenance of effort amount. In making this determination, the city manager shall exclude:

1. Monies required to match external program funding that could be reduced or eliminated; and

2. Monies collected pursuant to chapter 3.26 that were allocated to children and youth services.

C. In any year, the city's maintenance of effort amount shall not be reduced more than the same percentage of reduction that is imposed on the city's net general fund budget for non-safety departments.

### **3.50.060 Oversight committee.**

Before January 1, 2017, the city council shall, by resolution, establish an oversight committee to review the revenue and expenditure of monies from the children's fund. The committee members' terms, qualifications, and duties, and the committee's scope of authority, shall be established by the resolution.

## **SECTION 3**

Section 3.08.205 of the Sacramento City Code is amended to read as follows:

### **3.08.205 Marijuana businesses.**

A. Every person engaged in a marijuana business shall pay an annual business operations tax as follows:

1. On and after July 1, 2011, four percent of each dollar of gross receipts for the reporting period.

2. Notwithstanding the tax rate imposed in subsection A.1, the city council may, in its discretion, at any time by resolution implement any lower tax rate it deems appropriate, and may by resolution increase such tax rate from time to time, not to exceed the maximum rate established under subsection A.1.

B. For purposes of this section, the following terms have the following meanings:

"Gross receipts" has the meaning as defined in section 3.08.020, as it pertains to the marijuana business' reporting period, and includes receipts from the sale of marijuana and from the sale of paraphernalia used for consuming marijuana and any other products, goods, or services sold or provided by the marijuana business.

"Marijuana" has the same meaning as "cannabis" as defined in California Business and Professions Code section 19300.5.

"Marijuana business" means a business activity including, but not limited to, transporting, storing, packaging, providing, or selling wholesale and/or retail sales of marijuana. A marijuana business includes any facility, building, structure or location, whether fixed, mobile, permanent, or temporary, where marijuana is made available, sold, given, distributed, or otherwise provided in accordance with California Health and

Safety Code section 11362.5 and article 2.5 of chapter 6 of division 10 of the California Health and Safety Code (commencing with section 11362.7). A marijuana business includes medical marijuana “cooperatives” and “collectives” that are established as not-for profit businesses **and for-profit businesses**.

“Reporting period” means a year, quarter, or calendar month, as determined by the administrator.

C. The provisions of Section 3.08.210 do not apply to any marijuana business. Every marijuana business not having a fixed place of business within the city that engages in business within the city shall pay a business operations tax calculated pursuant to subsection A.1.

#### **SECTION 4**

Section 3.08.208 is added to the Sacramento City Code to read as follows:

##### **3.08.208 Marijuana cultivation and manufacturing businesses—Children’s fund.**

A. Every person engaged in a marijuana cultivation business or a marijuana manufacturing business shall pay an annual business operations tax as follows:

1. On and after January 1, 2017, five percent of each dollar of gross receipts for the reporting period, with all revenue deposited into the children’s fund established in chapter 3.50. **The administrator may, as necessary or desirable, establish rules and regulations consistent with the provisions of this chapter to ensure that marijuana cultivation businesses and marijuana manufacturing businesses do not evade the business operations tax by selling or transferring marijuana or manufactured marijuana at artificially low prices.**

2. Notwithstanding the tax rate imposed in subsection A.1, the city council may, in its discretion, at any time by resolution implement any lower tax rate it deems appropriate, and may by resolution increase such tax rate from time to time, not to exceed the maximum rate established under subsection A.1.

B. For purposes of this section, the following terms have the following meanings:

“Gross receipts” has the meaning as defined in section 3.08.020, as it pertains to the business’ reporting period, and includes receipts from the sale or transfer of marijuana, and from any other products, goods, or services sold or provided by the marijuana cultivation business or marijuana manufacturing business.

“Marijuana” has the same meaning as “cannabis” as defined in California Business and Professions Code section 19300.5.

“Marijuana cultivation business” means a business involving the planting, growing, harvesting, drying, curing, grading, or trimming of marijuana. A marijuana cultivation business is not involved in the transportation, distribution, testing, dispensing, or delivery of marijuana. “Marijuana cultivation business” includes businesses that cultivate marijuana to be used for medical and nonmedical purposes, and includes “cooperatives” and “collectives” that are established as not-for-profit businesses and for-profit businesses.

“Marijuana manufacturing business” means a business involving the producing, preparing, propagating, or compounding of manufactured marijuana, either directly or indirectly, or by extraction methods, or independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis. A marijuana manufacturing business is not involved in the transportation, distribution, testing, dispensing, or delivery of marijuana. “Marijuana manufacturing business” includes businesses that manufacture marijuana to be used for medical and nonmedical purposes, and includes “cooperatives” and “collectives” that are established as not-for-profit businesses and for-profit businesses.

“Reporting period” means a year, quarter, or calendar month, as determined by the administrator.

C. The provisions of section 3.08.210 do not apply to any marijuana cultivation business or marijuana manufacturing business. Every marijuana cultivation business or marijuana manufacturing business not having a fixed place of business within the city that engages in business within the city shall pay a business operations tax calculated pursuant to subsection A.1.

## **SECTION 5**

This ordinance shall take effect on January 1, 2017, but only if approved by two-thirds of the voters of the City of Sacramento voting in an election held before July 1, 2016.

## **SECTION 6**

Adoption of this ordinance does not affect any administrative or civil prosecutions or proceedings brought or to be brought to enforce the provisions of Sacramento City Code chapter 3.08 as they existed prior to the effective date of this ordinance. The provisions of chapter 3.08, as they exist prior to the effective date of this ordinance, shall continue to be operative and effective with regard to any obligations or acts occurring prior to the effective date of this ordinance.

Adopted by the City of Sacramento City Council on by the following vote:

Ayes:

Noes:

Abstain:

Absent:

Ordinance No.

Adopted on

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MAYOR

Attest:

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City Clerk

Passed for Publication:

Published:

Effective:

## **RESOLUTION NO. 2016-**

Adopted by the Sacramento City Council

### **APPROVING BALLOT MEASURE TEXT TO BE SUBMITTED TO THE VOTERS IN A QUESTION RELATING TO A BUSINESS OPERATIONS TAX ON BUSINESSES ENGAGED IN MARIJUANA CULTIVATION AND MANUFACTURING WITH REVENUES TO BE USED FOR CHILDREN AND YOUTH SERVICES, TO BE INCLUDED WITH THE CONSOLIDATED PRIMARY MUNICIPAL ELECTION OF JUNE 7, 2016**

#### **BACKGROUND**

- A. The City of Sacramento has a significant at-risk youth population and current City resources are inadequate to meet those needs.
- B. In fiscal year 2013/14, the City of Sacramento spent less than one percent of its General Fund resources on Sacramento's young people.
- C. To address these unmet needs, the City Council could place a measure on the June 2016 ballot to establish the Sacramento Children's Fund (Fund) to provide additional funding for children and youth services.
- D. This measure would add a five percent business operations tax (BOT) on businesses engaged in marijuana cultivation and manufacturing and exempt these functions of the marijuana industry from the existing four percent BOT that would be directed to the General Fund. The revenue generated by this initiative would be dedicated solely to the Fund for children and youth programs.
- E. Pursuant to state election law, this is considered a special tax in that it is dedicated to a particular program/service, and as such will require two-thirds voter approval.
- F. Creating a dedicated funding source for child and youth programming in the City of Sacramento is in the long-term interests of Sacramento's children, youth, and residents at-large.

**BASED ON THE FACTS SET FORTH IN THE BACKGROUND, THE CITY COUNCIL  
RESOLVES AS FOLLOWS:**

Section 1. That the City Council approves for submittal to the voters at the June 7, 2016 Primary Municipal Election the following question:

**City of Sacramento Children's Fund.** To create a funding source dedicated to children and youth services, including homeless and foster youth, shall a 5% business operations tax on gross receipts of marijuana cultivation and manufacturing businesses be imposed, generating revenues potentially in the millions of dollars annually, to be used for children and youth services in the City of Sacramento?