

House Bill 2382

Sponsored by Representative SMITH DB, Senators ROBLAN, HEARD (at the request of Association of Oregon Counties) (Pre-session filed.)

SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure as introduced.

Allows certain counties to adopt ordinance to impose tax on medical and recreational marijuana production.

Takes effect on 91st day following adjournment sine die.

A BILL FOR AN ACT

1
2 Relating to county taxes on marijuana production sites; creating new provisions; amending ORS
3 475B.491; prescribing an effective date; and providing for revenue raising that requires approval
4 by a three-fifths majority.

5 **Be It Enacted by the People of the State of Oregon:**

6 **SECTION 1.** ORS 475B.491 is amended to read:

7 475B.491. (1)(a) Except as expressly authorized by this section, the authority to impose a tax or
8 fee on the production, processing or sale of marijuana items in this state is vested solely in the
9 Legislative Assembly.

10 (b) Except as expressly authorized by this section, a county, city or other municipal corporation
11 or district may not adopt or enact ordinances imposing a tax or fee on the production, processing
12 or sale of marijuana items in this state.

13 (2) Subject to subsection (4) of this section, the governing body of a city or county may adopt
14 an ordinance to be referred to the electors of the city or county as described in subsection (3) of
15 this section that imposes a tax or a fee on the sale of marijuana items that are sold in the area
16 subject to the jurisdiction of the city or the unincorporated area subject to the jurisdiction of a
17 county by a marijuana retailer that holds a license issued under ORS 475B.105.

18 (3) If the governing body of a city or county adopts an ordinance under this section, the gov-
19 erning body shall refer the measure of the ordinance to the electors of the city or county for ap-
20 proval at the next statewide general election.

21 (4) An ordinance adopted under **subsection (2) of this section** may not impose a tax or fee:

22 (a) In excess of three percent; or

23 (b) On a registry identification cardholder or on a designated primary caregiver who is pur-
24 chasing a marijuana item for a registry identification cardholder.

25 (5)(a) **As used in this subsection:**

26 (A) **"Marijuana production site" means:**

27 (i) **A premises for which a license has been issued under ORS 475B.070; or**

28 (ii) **The marijuana grow site of a person designated to produce marijuana by a registry**
29 **identification cardholder.**

30 (B) **"Qualifying county" means a county that:**

NOTE: Matter in boldfaced type in an amended section is new; matter [*italic and bracketed*] is existing law to be omitted. New sections are in boldfaced type.

1 (i) Received payments under the federal Secure Rural Schools Program during the 2008
2 calendar year in an amount that was equal to at least 30 percent of all moneys deposited into
3 the county general fund in that same period; and

4 (ii) Has not adopted an ordinance to prohibit the establishment of an entity for which a
5 license under ORS 475B.070 is required.

6 (b) The governing body of a qualifying county may adopt an ordinance to be referred to
7 the electors of the county as described in subsection (3) of this section that imposes a tax
8 on each marijuana production site located in the unincorporated area subject to the juris-
9 diction of the county. The tax must be based on:

10 (A) For a marijuana production site for which a license has been issued under ORS
11 475B.070, the maximum canopy size allowed under the license issued for that marijuana
12 production site.

13 (B) For a marijuana production site of a person designated to produce marijuana by a
14 registry identification cardholder, the maximum number of mature plants allowed for that
15 marijuana production site.

16 (c) The Oregon Health Authority or the Oregon Liquor Control Commission may suspend,
17 revoke or refuse to renew a license under ORS 475B.070 or a registration under ORS 475B.810
18 if the person who holds the license or registration fails to remit to the county the tax de-
19 scribed in this subsection.

20 (d) An ordinance adopted under this subsection may not impose a tax in excess of:

21 (A) For a marijuana production site for which a license has been issued under ORS
22 475B.070, \$1 per square foot of canopy allowed for the marijuana production site.

23 (B) For a marijuana production site of a person designated to produce marijuana by a
24 registry identification cardholder, \$50 per mature marijuana plant allowed for that marijuana
25 production site.

26 (e) The authority and the commission shall provide to a qualifying county that adopts an
27 ordinance under this subsection all information in the possession of the authority and the
28 commission that is necessary for the county to accurately impose and collect the tax, in-
29 cluding but not limited to information related to the identification of the person that holds
30 the license or registration, the location and mailing address of the marijuana production site,
31 the maximum allowable mature marijuana plant count and the maximum allowable canopy
32 size.

33 (6) The governing body of a qualifying county may impose a tax under either or both
34 subsections (2) and (5) of this section.

35 **SECTION 2.** The amendments to ORS 475B.491 by section 1 of this 2019 Act apply to
36 marijuana produced on or after January 1, 2020.

37 **SECTION 3.** (1) The amendments to ORS 475B.491 by section 1 of this 2019 Act become
38 operative on January 1, 2020.

39 (2) The Oregon Health Authority and the Oregon Liquor Control Commission may take
40 any action before the operative date specified in subsection (1) of this section that is neces-
41 sary to enable the authority and the commission to exercise, on and after the operative date
42 specified in subsection (1) of this section, all of the duties, functions and powers conferred
43 on the authority and the commission by the amendments to ORS 475B.491 by section 1 of this
44 2019 Act.

45 **SECTION 4.** This 2019 Act takes effect on the 91st day after the date on which the 2019

1 regular session of the Eightieth Legislative Assembly adjourns sine die.

2

OMMP Patients*

<u>County</u>	<u>Patients**</u>	<u>Plants</u>
Coos	538 x 6 =	3,228
Curry	330 x 6 =	1,980
Jackson	4,390 x 6 =	26,340
Josephine	3,540 x 6 =	21,240
Lane	3,655 x 6 =	21,930

*OMMP Statistical Snapshot 10/2018

**Cannot grow more than 6 mature plants per patient

A grow site address that is the patient's residence where patient or caregiver is the designated grower

Max 6 mature plants per patient, max of 12 at address

12 immature, regardless of height

PRMG outside city

Max 48 mature plants, plus 4 personal plants

96 immature if > 24"

288 immature if < 24"

PRMG if registered before 1/1/15 and outside a city (grandfathered site)

Max 96 mature plants, plus 4 personal plants

192 immature >24"

576 immature <24"

MARIJUANA TAXATION PROGRAM

- Taxes only mature plants
- Assumes 64 sq. ft. of canopy per plant
- Illustrates range of outdoor plant tiers (does not account for indoor grow sites)
- Inventory does not include illegal grow sites or those with less than 12 plants

OLCC Tiers

Indoor	Outdoor
Micro-tier I: Up to 625 sq. ft.	Up to 2500
Micro-tier II: Up to 1250 sq. ft.	2501-5000
Tier I: 1251 to 5000 sq. ft.	5001-20,000
Tier II: 5001-10,000 sq. ft.	20,000-40,000

Calculations

A. Number of OLCC Producer licenses issued to each county, as of December 14, 2018/Assume Maximum Outdoor Tier II (40,000 sq. ft. of canopy/assume 64 sq. ft. canopy per plant)

Coos: 35 (4 of which are OLCC medical grade, so assume 31) 1,240,000 canopy or 19,375 mature plants

Curry: 20 (7 of which are OLCC medical grade, so assume 13) 520,000 or 8,125 mature plants

Jackson: 459 (26 of which are OLCC medical grade/3 OLCC Hemp, so assume 430) 17,200,000 or 268,750 mature plants

Josephine: 393 (9 of which are OLCC medical grade, so assume 384) 15,360,000 or 240,000 mature plants

Lane: 274 (54 of which are OLCC medical grade/8 OLCC Hemp, so assume 212) 8,480,000 or 132,500 mature plants

B. Assume smallest outdoor tier (5000 sq. ft.)

Coos: $31 \times 5000 = 155,000$ sq. ft./2422 mature plants

Curry: $13 \times 5000 = 65,000$ sq. ft./1016 mature plants

Jackson: $430 \times 5000 = 2,150,000$ sq. ft./33,594 mature plants

Josephine: $384 \times 5000 = 1,920,000$ sq. ft./30,000 mature plants

Lane: $212 \times 5000 = 1,060,000$ sq. ft./16,563 mature plants

C. Number of OMMP Grow Sites, as of October 2, 2018/Conservative assumption 6 mature plants per patient/64 sq. ft. per plant

Coos: 280 (ave. patients per grow site: 1.92 = 11.52 plants/grow site) $280 \times 11.52 = 3226$ plants

Curry: 143 (ave. patients per grow site: 2.30 = 13.8 plants/grow site) $143 \times 13.8 = 1973$ plants

Jackson: 1695 (ave. patients per grow site: 2.59 = 15.54 plants/grow site) 1695 x 15.54 = 26,340 plants

Josephine: 1668 (ave. patients per grow site: 2.12 = 12.72 plants/grow site) 1668 x 12.72 = 21,217 plants

Lane: 1496 (ave. patients per grow site: 2.44 = 14.64 plants/grow site) 1496 x 2.44 = 3650 plants

D. Range OLCC/OMMP

Coos OLCC: 155,000-1,240,000 sq. ft./2422-19,375 mature plants

Coos OMMP: 3226 plants x 64 sq. ft. = 206,464 sq. ft.

Range: 361,464-1,446,464 sq. ft./5648-22,601 mature plants

Curry OLCC: 65,000-520,000 sq. ft./1016-8125 mature plants

Curry OMMP: 1973 plants x 64 sq. ft. = 126,272 sq. ft.

Range: 191,272-646,272 sq. ft./2989-10,098 mature plants

Jackson OLCC: 2,150,000-17,200,000 sq. ft./33,594-268,750 mature plants

Jackson OMMP: 26,340 plants x 64 sq. ft. = 1,685,760 sq. ft.

Range: 3,835,760-18,885,760 sq. ft./59,934-295,090 mature plants

Josephine OLCC: 1,920,000-15,360,000 sq. ft./30,000-240,000 mature plants

Josephine OMMP: 21,217 plants x 64 sq. ft. = 1,357,888 sq. ft.

Range: 3,277,888-16,717,888 sq. ft./51,217-261,217 mature plants

Lane OLCC: 1,060,000- 8,480,000 sq. ft./16,563-132,500 mature plants

Lane OMMP: 3650 plants x 64 sq. ft. = 233,600 sq. ft.

Range: 1,293,600-8,713,600 sq. ft./20,213-136,150 mature plants

E. Total Sq. Ft./Mature Plants for Five County Region

8,959,984-46,409,984 sq. ft./140,001-725,156 mature plants

F. Example: 50 cents per sq. ft. or 75 cents per plant

\$4,479,992-23,204,992 into the region/\$105,001-543,867 into region via plant tax

Sources:

12/14/2018 Source: https://www.oregon.gov/olcc/marijuana/Documents/mj_app_stats_by_county.pdf
10/02/2018

<https://www.oregon.gov/oha/PH/DISEASES/CONDITIONS/CHRONICDISEASE/MEDICALMARIJUANAPROGRAM/Documents/OMMP%20Statistical%20Snapshot%202010-2018.pdf>

OMMP Plant Limits:

<https://www.oregon.gov/oha/PH/DISEASES/CONDITIONS/CHRONICDISEASE/MEDICALMARIJUANAPROGRAM/Documents/Plant-Limit-Chart.pdf>

**BEFORE THE BOARD OF COUNTY COMMISSIONERS FOR JOSEPHINE COUNTY
STATE OF OREGON**

In the Matter of Referring to Josephine
County Voters at the November 6, 2018
Election an Advisory Question on
Marijuana Taxation)
)
)
)

Resolution No. 2018-048

WHEREAS, the Josephine County Board of Commissioners, "Board," has the authority to submit to the electors at duly scheduled elections advisory questions on matters of interest to the County;

WHEREAS, Josephine County residents are affected by the production, processing, transporting and selling of marijuana and its products within the County, and

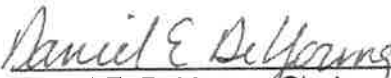
WHEREAS, the Board has determined that the electors of Josephine County should have the opportunity to express their opinions as to whether the County should take steps to tax the production of marijuana; now therefore

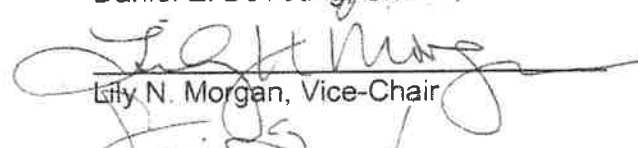
The JOSEPHINE COUNTY BOARD OF COMMISSIONERS hereby resolves:

1. The advisory question in the ballot title, attached hereto as Exhibit A, shall be referred to the electors of the County for their "yes" or "no" vote.
2. The ballot title and explanatory statement, attached hereto and marked as Exhibits A and B, are approved for submission to the Josephine County Elections Officer, "County Clerk," for the November 6, 2018, General Election.
3. The Josephine County Legal Counsel will certify form SEL 801, the Notice of County Measure Election, as required by law.
4. Following certification, the Josephine County Legal Counsel shall cause to be delivered to the County Clerk this resolution, ballot title, form SEL 801, and explanatory statement for the voter's pamphlet, for further action as required by law for placement on the November 6, 2018, election ballot.
5. The County Clerk shall give notice of receipt of the ballot title and notice of electors' right to petition for review of the ballot title as provided by law.

DONE AND DATED this 15th day of August, 2018.

JOSEPHINE COUNTY
BOARD OF COMMISSIONERS


Daniel E. DeYoung, Chair


Lily N. Morgan, Vice-Chair

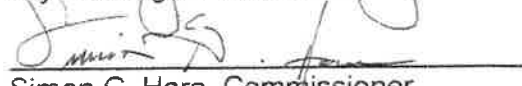

Simon G. Hare, Commissioner

EXHIBIT A
BALLOT MEASURE

CAPTION: (5/10 words)

Advisory Question on Marijuana Taxation

QUESTION: (17/20 words)

In your opinion, should Josephine County be able to tax the production of recreational and medical marijuana?

BALLOT SUMMARY: (160/175 words)

The outcome of the election on this advisory question will not be binding. It will provide information to the Board of County Commissioners while the Board formulates policy.

State law currently prevents Counties from taxing marijuana production. In December, 2017 the Association of Oregon Counties, which includes your County, formally recommended that state law be changed so that five Southwest Oregon counties (Coos, Curry, Douglas, Jackson and Josephine) could tax marijuana production. Following legislative approval, voters of each county could then decide whether to impose such a tax. Property tax rates would not be impacted.

The state currently collects annual fees from marijuana producers. Under the counties' proposal, the state would also collect an annual amount for the county in which each grow site is located, and provide that additionally collected amount to the county. The revenue collected from marijuana producers would be dedicated to a law enforcement trust fund.

This proposal would not affect the current property tax rate.

EXHIBIT B

EXPLANATORY STATEMENT FOR VOTERS' PAMPHLET

Ballot Title Caption Advisory Question on Marijuana Production Taxation

Measure No. _____ Word Total (500 max) 436

In 1998, Oregon voters passed Measure 67 which modified state law to allow the cultivation, possession and use of marijuana to treat certain medical conditions when recommended by a doctor. Then, in 2014 Oregon voters passed Measure 91 which legalized the recreational use of marijuana. Neither measure affects federal law, which presently prohibits the cultivation and possession of marijuana.

Since the passage of Measures 67 and 91, the Oregon Legislature has approved statutes and authorized the creation of rules and regulations surrounding marijuana regulation and taxation. The state government collects 17 percent of revenue received by commercial marijuana retailers, and sends a portion of the amount it collects to counties. As of July 31, 2018, Josephine County has received \$745,526.94 from the state based on sales of marijuana. Additionally, counties are permitted to impose a 3 percent tax on revenue derived from retail sales of marijuana. Josephine County voters approved such a tax as Ordinance 2016-005 at the November 8, 2016 election. As of July 31, 2018, Josephine County has received \$90,393.98 from local vendors of retail marijuana.

The Oregon State Police reported in January, 2017 that, "Southwestern Oregon, particularly the counties of Jackson and Josephine, provides amenable environmental conditions for outdoor cannabis cultivation due to soil composition, temperate climate, and altitude. Accordingly, current OMMP information from the Oregon Health Authority shows a plethora of registered cultivation sites within Oregon's agricultural breadbasket." According to the Oregon Health Authority, Josephine County is second in the state (after Jackson County) with 2,435 medical grow sites as of April 20, 2018. Similarly, the Oregon Liquor Control Commission reports that as of July, 2018, Josephine County also ranks second in the state for recreational production with 157 approved producer licenses.

State law currently prevents counties from taxing marijuana production. In December, 2017 the Association of Oregon Counties, which includes Josephine County, formally recommended that state law be changed so that five Southwestern counties (Coos, Curry, Douglas, Jackson and Josephine) could tax marijuana production. Following legislative approval, voters of each county could then decide whether to impose such a tax. Property tax rates would not be impacted.

The state currently collects annual fees from medical and recreational marijuana producers. Under the counties' proposal, the state would also collect an annual amount for the county in which each grow site is located, and provide that additionally collected amount to the county. The revenue collected from marijuana producers would be dedicated to a law enforcement trust fund.

The outcome of the election on this advisory question will not be binding. It will provide information to the Board of County Commissioners while the Board formulates policy.

Board of County Commissioners
Person responsible for the content of the Statement

Josephine County
Name of the Government Body person represents