



COUNTY OF HUMBOLDT

AGENDA ITEM NO.  
H-1

For the meeting of: May 20, 2014

Date: May 12, 2014  
To: Board of Supervisors  
From: Phillip Smith-Hanes, County Administrative Officer *PSH*  
Subject: Placing a Local Revenue Measure on the Ballot for November 2014

RECOMMENDATION(S):

That the Board of Supervisors:

1. Receive a report on various options for placing a local measure to raise County revenues before voters at the November 4, 2014, General Election and provide further direction to staff;
2. Approve a transfer from General Fund contingencies (4/5ths vote required), as shown in Attachment 1, to provide funding for polling on the likelihood of passage of a local revenue measure; and
3. Designate two members of your Board to work with the County Administrative Officer in providing any necessary feedback to the selected polling firm.

SOURCE OF FUNDING: General Fund

Prepared by Phillip Smith-Hanes CAO Approval *[Signature]*  
 REVIEW: Auditor *[Signature]* County Counsel *WBC* Human Resources \_\_\_\_\_ Other \_\_\_\_\_

TYPE OF ITEM:  
 Consent  
 Departmental  
 Public Hearing  
 Other \_\_\_\_\_

**BOARD OF SUPERVISORS, COUNTY OF HUMBOLDT**  
 Upon motion of Supervisor \_\_\_\_\_ Seconded by Supervisor \_\_\_\_\_  
 Ayes \_\_\_\_\_  
 Nays \_\_\_\_\_  
 Abstain \_\_\_\_\_  
 Absent \_\_\_\_\_

PREVIOUS ACTION/REFERRAL:  
 Board Order No. \_\_\_\_\_  
 Meeting of: \_\_\_\_\_

**\*BOARD ORDER\***

and carried by those members present, the Board hereby approves the recommended action contained in this Board report.

Dated: \_\_\_\_\_  
 By: \_\_\_\_\_  
**Kathy Hayes, Clerk of the Board**

## DISCUSSION:

On May 6, your Board directed the County Administrative Officer to “prepare a report to the Board regarding possibilities for generating revenues locally to fund public safety and other services, including:

- Possible revenue sources and levels
- How revenues might be allocated
- The process and timeline for placing a measure on the ballot
- A budget request to fund outreach and polling to ensure the best likelihood of success.”

### ***Possible revenue sources and levels***

The Board has discussed two principal ideas with regard to generating local revenue: a sales tax and a utility user tax. There are other ways that the County could generate local revenues. One option would be a parcel tax, which is a tax on real property that is not based on the value of the property but rather on characteristics such as parcel size. (Under Article XIII A, Section 1, of the California Constitution, *ad valorem* property taxes are limited to 1% of the property’s value.) Parcel taxes require a two-thirds vote for approval. Another option would be an increase to the County’s existing transient occupancy (hotel/motel) tax. However, because of the limited time frame for putting an item on the ballot in November 2014 this report will focus on sales and utility user taxes.

### *Sales Tax*

Under Revenue & Taxation Code Section 7285, “the board of supervisors of any county may levy, increase, or extend a transactions and use tax for general purposes at a rate of 0.125 percent or a multiple thereof, if the ordinance proposing that tax is approved by a two-thirds vote of all members of the board of supervisors and the tax is approved by a majority vote of the qualified voters of the county voting in an election on the issue.” Similarly, under Section 7285.5, “as an alternative to the procedure set forth in Section 7285, the board of supervisors of any county may levy, increase, or extend a transactions and use tax for specific purposes. The tax may be levied, increased, or extended at a rate of 0.125 percent, or a multiple thereof, for the purpose for which it is established,” if certain requirements are met. These requirements include approval by two-thirds of the Board and subsequent approval by two-thirds of voters, and inclusion of “an expenditure plan describing the specific projects for which the revenues from the tax may be expended” within the ordinance proposing the tax.

The combined rate of all local sales taxes may not exceed two percent pursuant to Revenue & Taxation Code Section 7251.1. Each 0.125 percent increment of sales tax in the unincorporated area of the County generates approximately \$600,000 annually in revenue. Therefore, the minimum amount (0.125 percent) would generate \$600,000 and the maximum amount (2.0 percent) would generate \$9.6 million. Currently, the cities of Arcata, Eureka and Trinidad have local sales taxes at a rate of 0.75 percent. A tax at an equivalent rate in the unincorporated County would generate approximately \$3.6 million in annual revenue.

### *Utility User Tax*

Pursuant to Revenue & Taxation Code Section 7284.2, “the board of supervisors of any county may levy a utility user tax on the consumption of electricity, gas, water, sewer, telephone, telegraph, and cable television services in the unincorporated area of the county.” State law does not appear to set minimum or maximum rates for this type of tax, but again a tax for general purposes is subject to approval by a majority of the voters and a special tax is subject to approval by two-thirds of voters.

On March 25, your Board heard a presentation from staff regarding an excessive energy use tax, which is a form of utility user tax levied on residential customers using in excess of 600 percent of established baselines. At that time, staff estimated the revenue potential from such a tax (at a tax rate of 45 percent) to

be just over \$1 million. Based on the information supplied by Pacific Gas and Electric Company regarding energy consumption in the unincorporated portion of the County, each one percent tax on electric usage would generate approximately \$530,000. The City of Arcata currently levies a utility user tax which covers communications, cable television, electric, natural gas, water and wastewater services. This tax is levied at a rate of 3 percent of the users' charges for service, with an inflation-adjusted maximum total currently set at \$1,599.60 annually for each customer. Until December 31, 2010, the City of Eureka also had a utility user tax which covered telephone, cable television, electric and natural gas services, at a rate of 3 percent. A 3 percent rate in the unincorporated County would yield \$1.9 million annually from electric and cable television services; staff has not had time to research the revenue potential for taxing telephone, natural gas, water or sewer services.

*Issues on which staff needs direction*

- Should the County pursue a sales tax or a utility user tax?
- What rate should the County pursue?

***How revenues might be allocated***

Pursuant to Article XIII C, Section 2, of the State Constitution, "no local government may impose, extend, or increase any special tax unless and until that tax is submitted to the electorate and approved by a two-thirds vote." Section 1 defines special tax as "any tax imposed for specific purposes, including a tax imposed for specific purposes, which is placed into a general fund." Therefore, the County could not designate the revenues raised from a tax measure only to public safety purposes without triggering the requirement for two-thirds voter approval. According to data from one consultant, during the 2012 election cycle, counties in California were successful in 61.5% of general purpose tax increases but only 45% of special purpose measures.

However, other jurisdictions have used creative mechanisms for making sure that community viewpoints about expenditure of revenues are included even in a general purpose tax increase. These include having an advisory measure (non-binding) accompanying the tax measure on the ballot which expresses the community's preference about where the funds should be spent, or creating a committee that would review expenditure plans and make recommendations to the decision-making body (the Board of Supervisors). In any case, having strong financial accountability measures tend to help revenue measures be more successful.

*Who would pay? Who would vote?*

Staff proposes that either a sales tax or a utility user tax be assessed only in the unincorporated area of the County. While the statute cited above is specific on this point for utility user taxes, there is potential for a sales tax to be levied within cities as well (this was proposed with Measure L in 2004). However, given the short time frame for placing an item on the agenda it seems advisable not to try and bring in cities at this time. The City of Fortuna is exploring the idea of placing a tax measure on the ballot in November as well, and the City of Eureka will have to decide whether to extend the local sales tax collected pursuant to Measure O.

Staff also recommends that all residents of Humboldt County, whether living in cities or in the unincorporated area, vote on a potential revenue measure. As discussed with your Board previously, State law is somewhat ambiguous on this question but generally provides that revenues from a tax measure support services that benefit those who vote on the measure. Since all County residents benefit from services such as the Jail, Probation, and District Attorney, it would be difficult to apportion a benefit only to the residents of the unincorporated area. Staff believes it is the most legally defensible course to have all residents vote on the measure.

*Issues on which staff needs direction*

- Should the County pursue a general tax or a special tax?
- Should a general tax measure also include an advisory measure or an advisory committee?

***Process and timing for placing a measure on the ballot***

Under Government Code Section 53724, the Board would have to vote by two-thirds (on a five-member Board, this would require a four-fifths vote) to place an item on the ballot. The last day for placing an item on the ballot for November 4 is August 8. However, the Elections Office states that they would prefer to have the item by July 22, and that is the date of your Board's last scheduled meeting prior to August 8.

The Elections Office would need an order from your Board approving consolidation of this item with the November 4 election, as well as the language of the measure itself. County Counsel would also need to prepare an impartial analysis of the measure for the voters' guide. The measure would be in the form of an ordinance (although in this case the ordinance would ultimately be approved by the voters rather than your Board). Pursuant to Government Code Section 53724, the ordinance would need to include the type of tax, the rate to be levied, the method of collection, the date upon which the election will be held, and—in the case of a special tax—the purpose or service for which it is imposed.

Before deciding to place an item on the ballot, your Board may wish to conduct some polling to determine the likely outcome of such a ballot measure. There would be a cost associated with placing the item before the voters, and if a tax is unlikely to pass it may not be worth spending that money. Polling results may also help the Board to answer the four questions listed previously on which staff will need direction to develop an ordinance.

Pursuant to Board direction on May 6, staff has reached out to three reputable firms that conduct polling on ballot measures. These firms have quoted prices of between \$18,500 and \$44,000 to conduct polling, depending on the number of voters surveyed and the number of questions asked. They would require between three and six weeks to conduct the polling.

A potential timeline for placing a measure on the November ballot is as follows:

<i>May 27</i>	Polling Firm Selected and Contract Signed
<i>June 2-20</i>	Polling Firm Surveys Voters
<i>July 1</i>	Board Receives Report of Polling, Makes Decision on Ordinance
<i>July 7-18</i>	Staff Drafts Ordinance
<i>July 22</i>	Ordinance Adopted by Board
<i>November 4</i>	Election Day

As you can see, this timeline is extremely tight. In fact, there is essentially no room for slippage or for bringing additional information to your Board. Therefore, staff would appreciate it if your Board could designate two of your members to work with the County Administrative Officer should the selected polling firm need assistance with question selection or other directions.

***Budget request to fund outreach and polling***

Based on the preliminary quotes from three polling vendors, staff is requesting an appropriation of \$42,000 if your Board wishes to move forward. This is near the high end of the quotes received. While staff does not anticipate selecting the most expensive option, this amount would also provide funding for additional expenses noted in some of the quotes from the vendors (such as travel to meet with staff) and potentially for a small consulting contract to assist in analyzing polling results, developing a plan and working with staff on draft language for a ballot measure.

Because the resulting contract would be for a professional service valued at less than \$50,000, the County Administrative Officer (in his role as Purchasing Agent pursuant to County Code Section 245-1) would be empowered to select a vendor and enter into a contract without further Board approval.

FINANCIAL IMPACT:

The attached transfer would reduce General Fund contingencies by \$42,000. This request meets your Board's policy on use of contingencies in that this expenditure is an unanticipated and unbudgeted expense that is necessary for delivering local services and that cannot be deferred until the next budget cycle. This request also meets your Board's Strategic Framework, Priorities for New Initiatives, by making a proactive decision to partner to promote quality services through facilitating the establishment of local revenue sources to address local needs.

OTHER AGENCY INVOLVEMENT:       None.

ALTERNATIVES TO STAFF RECOMMENDATIONS:   Board discretion.

ATTACHMENTS:

1. Request for Budget Transfer/Adjustment

Attachment 1  
 COUNTY OF HUMBOLDT  
 REQUEST FOR BUDGET TRANSFER/ADJUSTMENT

# A \_\_\_\_\_

DEPARTMENT: GF Contingency/CAO      DEPARTMENT #: 990      DATE: 5/20/2014

1.) The reason for this budget transfer request is:

- \_\_\_\_\_ Transfer within expenditure/revenue category (with Auditor Approval)
- \_\_\_\_\_ Transfer between expenditure/revenue category (with CAO & Auditor Approval)
- \_\_\_\_\_ Increase/decrease Intrafund Transfer account (with Board Approval)\*
- \_\_\_\_\_ Transfer to or from Contingencies (with Board Approval)\*
- \_\_\_\_\_ Increase/decrease budget unit appropriation (with Board approval)\*
- \_\_\_\_\_ Establish/transfer funds in Fixed Assets <\$10,000 (CAO & Auditor Approval)
- \_\_\_\_\_ Establish/transfer funds in Fixed Assets >\$10,000 (with Board Approval)\*

2.) TRANSFER FROM:

<u>Orgkey</u>	<u>Account Number</u>	<u>Account Name</u>	<u>Amount</u>
1100	990-2010	Contingencies - Co General Fund	\$ 42,000.00

TRANSFER TO:

<u>Orgkey</u>	<u>Account Number</u>	<u>Account Name</u>	<u>Amount</u>
1100	103-2118	Professional & Special Service	\$ 42,000.00

3.) In the space below, state (a) reason for transfer request, (b) reason why there are sufficient balances in affected accounts, and (c) why transfer cannot be delayed until next budget year.

Per attached agenda item

\_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

4.) Department Authorization: (signed) Phillip Smid Hansa

5.) Account balances verified by Auditor-Controller Date 5/13/14 (signed) Arthur E. ...

6.)  /Approved     /Not approved     /Recommended     /Not recommended

County Administrative Officer:      Date 5-13-14 (signed) [Signature]

INSTRUCTIONS

SEND ORIGINAL REQUEST FOR BUDGET TRANSFER DIRECTLY TO THE AUDITOR-CONTROLLER.

\* Requires copy of Board Order to be attached