



# COUNTY OF HUMBOLDT

For the meeting of: 11/19/2019

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File #: 19-1668

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**To:** Board of Supervisors

**From:** County Administrative Office

**Agenda Section:** Departmental

**SUBJECT:**

Approval of Amended Administrative Regulations Regarding Collection of the Humboldt County Commercial Marijuana Cultivation Tax and Consideration of Potential Tax Incentives for Solar and Clean Renewable Energy, Road Improvements and Small Cultivators

**RECOMMENDATION(S):**

That the Board of Supervisors:

1. Approve the amended administrative regulations regarding collection of the Humboldt County Commercial Marijuana Cultivation Tax; and
2. Direct staff to return to the Board with appropriate documentation to implement recommended tax incentives for solar and clean renewable energy, road improvements and small cultivators.

**SOURCE OF FUNDING:**

General Fund

**DISCUSSION:**

On March 26, 2019, the Board directed staff to make the following changes related to the Humboldt County Commercial Marijuana Cultivation Tax:

1. Modify the billing cycle so bills are sent out in January and due on March 15 and October 15, to be paid in two (2) installments;
2. Update necessary regulations to ensure the tax effective date is when plants are on-site;
3. Update necessary regulations to ensure flexibility is given to the Planning & Building Department to determine the requests for reduction of square footage applied to permits issued under both the Commercial Medical Marijuana Land Use Ordinance (CMMLUO, or Ordinance 1.0) and the Commercial Cannabis Land Use Ordinance (CCLUO, or Ordinance 2.0); and
4. Bring back to the Board recommendations on tax incentives for water storage, solar and clean renewable energy.

Staff has taken, or will take, the following actions in response to the Board's direction:

**Board Directive No. 1 - Modified Billing Cycle:**

The amended administrative regulations currently before the Board effectuate recommendation No. 1 above. Per Section V of the attached administrative regulations, the Treasurer-Tax Collector shall send out bills by January 31 to be paid in two (2) installments. Installment dates are March 15 and October 15. Bills will become delinquent and subject to penalty after these dates.

### **Board Directive No. 2 - Tax Effective Date:**

Section V of the amended administrative regulations also provides that:

*“Marijuana tax bills shall be issued to all property owners whose marijuana cultivation permit was effective at any point during the prior year.”*

In order to determine the tax effective date, the Planning & Building Department will modify Ordinance 2.0 to require submission of a form letter declaring when plants will be “on-site” prior to the issuance of a new cultivation permit. The “on-site” date will become the issuance date of the permit, which will trigger imposition of the tax pursuant to Humboldt County Code Section 719-4. Staff will bring back to the Board an amended version of Ordinance 2.0 to reflect that the permit issuance date will be the date that cannabis plants are present at the location.

### **Board Directive No. 3 - Flexibility for Requests in Reduction of Square Footage:**

Currently, if a permittee plans to grow less square footage than their permit indicates, they may submit a “Cultivation Area Reduction Form” to the Planning & Building Department, who, upon confirmation reduces the permittee’s cultivation area accordingly. For new cultivation permitted under Ordinance 2.0, this declaration needs to be submitted between January 1 and January 31. Staff will bring back to the Board amended versions of both Ordinance 1.0 and Ordinance 2.0 to reflect that the declaration under either ordinance needs to be submitted by May 1. This directive will likely be impacted by staff’s recommended tax incentive No. 3 below, and staff will likely spend more time processing and verifying requests for reduction of square footage as a result.

### **Board Directive No. 4 - Tax Incentives:**

Also before the Board is a package of tax incentives designed to encourage cultivators to do more than their permits require in terms of protecting the environment. The recommended tax incentives below do not include traditional water storage projects since both Ordinance 1.0 and Ordinance 2.0 already require many applicants to store specific amounts of water as a requirement under their permit. Incentivizing additional water storage beyond the approved water budget for the project could have negative effects on the environment and produce unintended negative consequences.

While the federal and state governments, and local utilities, offer tax incentives and rebates based on energy output, project cost or flat dollar amounts, staff is proposing that each incentive simply result in a reduction of a percentage of a cultivator’s tax bill. This approach provides simplicity in terms of calculating and administering the benefit. Following is a brief description of staff’s recommended tax incentives:

***Recommended Incentive No. 1 - Improved Use of Renewable Energy:***

Cultivators permitted under Ordinance 1.0 have less stringent requirements and fewer restrictions than those permitted under Ordinance 2.0 regarding use of energy. For example, Ordinance 2.0 does not allow use of generators for cultivation operations on land zoned Timberland Production land, and requires permittees who are not served by Pacific Gas & Electric to have 80 percent of their power produced by renewable energy. Staff recommends that a one-time tax incentive equaling the greater of One Thousand Dollars (\$1,000.00) or 10 percent of the total tax bill, not to exceed a maximum value of Five Thousand Dollars (\$5,000.00), apply to cultivators permitted under Ordinance 1.0 who achieve certain energy requirements outlined in Ordinance 2.0.

***Recommended Incentive No. 2 - Road Improvements:***

In 2010 the Board adopted the 5 Counties Salmonid Conservation Road manual (5C), which provides a “user-friendly, fish-friendly ... framework for the implementation of improved road maintenance practices.” Similar to Recommended Incentive No. 1, cultivators permitted under Ordinance 1.0 are not required to follow practices laid out in 5C, while those permitted under Ordinance 2.0 are required to do so. Staff recommends that a one-time tax incentive equaling the greater of One Thousand Dollars (\$1,000.00) or 10 percent of the total tax bill, not to exceed a maximum value of Five Thousand Dollars (\$5,000.00), apply to cultivators permitted under Ordinance 1.0 who follow the Ordinance 2.0 guidelines regarding roads. In addition, any permittee who performs a permitted road improvement project that can show demonstrable improvement to the environment above and beyond the standards laid out in Ordinance 2.0 would be eligible for the incentive.

***Recommended Incentive No. 3 - Small Operator Incentive:***

Small cultivation operations have less of an overall impact on the surrounding environment by using less water and energy than larger farms. Staff recommends that an on-going tax incentive equaling the greater of One Thousand Dollars (\$1,000.00) or 15 percent of the total tax bill apply to outdoor and mixed light operations that have a total cultivation area of five thousand (5,000) square feet or less, as reflected in their permit or their approved square footage reduction declaration.

**FINANCIAL IMPACT:**

The incentive package as proposed would be applied to tax bills that are sent out in January 2021, and therefore, would not affect the fiscal year 2019-2020 budget. However, beginning in fiscal year 2020-2021, the recommended tax incentives have the potential of reaching a total reduction in tax revenue of \$13.5 million in the first year, depending on participation.

**Financial Impact for Recommended Incentive No. 1 - Improved Use of Renewable Energy:**

There are currently approximately 1,275 permitted cultivation operations, including interim permits, of which roughly 90 percent are operating under Ordinance 1.0. If each of those eligible permittees maximized the incentive, the reduction of tax revenue could total as much as \$5.737 million in 1 year.

This amount represents the maximum incentive that could be earned in one 1 year, based on the current number of permits. However, this amount does not include permits that could expire or be issued next year, as those numbers are not known at this point.

### **Financial Impact for Recommended Incentive No. 2 - Road Improvements:**

It is difficult to estimate the number of cultivators who would take advantage of this incentive, however, similar to Recommended Incentive No. 1, the maximum benefit that could be earned in one year, based on the current number of permits, could be up to \$6.375 million.

While each permitted cultivation operation would theoretically be eligible for this incentive, it is important to note that road projects can often take several years to complete and not every project will meet the threshold to establish a demonstrable improvement to the environment.

### **Financial Impact for Recommended Incentive 3 (Small Farms):**

Currently, there are just over 300 permitted cultivation operations, 50 mixed light and 250 outdoor, that are equal to, or less than, 5,000 square feet of cultivation area. If the permitted cultivation area for all of these operations is 5,000 square feet, the reduction of tax revenue would total \$1.4 million in 1 year.

It is important to note that the number of permittees who would be eligible for this incentive could fluctuate due to permittees' ability to submit a square footage reduction declaration, which makes financial impact estimates especially unpredictable.

### **STRATEGIC FRAMEWORK:**

The recommended actions support the Board of Supervisors' Strategic Framework by advancing local interests in natural resource discussions.

### **OTHER AGENCY INVOLVEMENT:**

N/A

### **ALTERNATIVES TO STAFF RECOMMENDATIONS:**

Board discretion

### **ATTACHMENTS:**

1. Amended Administrative Regulations Regarding Collection of the Humboldt County Commercial Marijuana Cultivation Tax

2. Proposed Humboldt County Commercial Marijuana Cultivation Tax Incentive Package

PREVIOUS ACTION/REFERRAL:

Board Order No.: F-1

Meeting of: March 26, 2019

File No.: 19-445