

**CITY OF SACRAMENTO
MEASURE Y**

Y “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?”

IMPARTIAL ANALYSIS OF MEASURE Y

Prepared by Sacramento City Attorney

Measure Y has been placed on the ballot by the Sacramento City Council. Measure Y, if approved, would enact an ordinance that amends the City of Sacramento’s existing business operations tax for certain marijuana-related businesses and establishes a special fund in the city, to be known as the children’s fund.

Currently, the City of Sacramento imposes a business operations tax on all “marijuana businesses” operating in the city. The maximum business operations tax rate on marijuana businesses is 4% of gross receipts. The tax revenue goes into the city’s general fund.

Under Measure Y, any person engaged in a “marijuana cultivation business or a marijuana manufacturing business” would be subject to a 5% tax on gross receipts, rather than the 4% applicable to other marijuana businesses. “Marijuana cultivation business” means a business involving the planting, growing, harvesting, drying, curing, grading, or trimming of marijuana; “marijuana manufacturing business” means a business producing, preparing, propagating, or compounding manufactured marijuana. The city council would have the discretion to lower or raise that rate from time to time, not to exceed the maximum rate of 5%.

If Measure Y is approved, the business operations tax revenues received from marijuana cultivation businesses and marijuana manufacturing businesses would go into a new children’s fund that is separate from the city’s general fund. Children’s fund monies may be used for services that promote the positive development in the education, career, and life of children and youth (ages 0-24); technical assistance and capacity-building for service providers; city fund-related administrative expenses (not more than 10% for this purpose); and evaluation of the services funded (not more than 5% for this purpose).

Children’s fund monies may only be used by city departments that provide services for children and youth, and tax-exempt organizations that provide services to children and youth. After deducting the amounts spent on administrative expenses and service evaluation, 70% of the fund monies must go to these tax-exempt organizations. Monies from the children’s fund will not replace monies from the city’s general fund allocated for children and youth services in the adopted fiscal year 2016-2017 budget. Measure Y requires to the city council to establish an oversight committee to review the revenue and expenditure of monies from the children’s fund.

The tax on marijuana cultivation businesses and marijuana manufacturing businesses proposed by Measure Y is a special tax because the tax revenues received could only be used for the purposes described in the ordinance.

A “yes” vote is in favor of approving the ordinance amending the business operations tax for certain marijuana-related businesses and establishing the children’s fund. A “no” vote is against approving the ordinance. The ordinance will take effect only if two-thirds of the voters voting on Measure Y approve it.

James C. Sanchez
City Attorney

FULL TEXT OF MEASURE Y

EXHIBIT B

ORDINANCE NO. 2016-0009

Adopted by the Sacramento City Council February 9, 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.

ARGUMENT IN FAVOR OF MEASURE Y

Vote Yes on Measure Y to help make Sacramento’s children and youth safer, healthier, happier and better educated, to give them a brighter future. When we make the lives of Sacramento’s young people better, we make Sacramento a safer, more prosperous and more hospitable place for everyone.

Measure Y will provide important programs, resources and opportunities for thousands of children and youth throughout the city, especially for those most in need – like homeless and foster youth and those struggling to resist gangs and drugs.

Vote Yes on Measure Y to help fill a vast unmet need for additional youth services in a city where 29% of children live in poverty, 73% qualify for free or reduced price school lunches and 64% of third graders score below proficiency for English. In a city where 25% of the population is under 18, the city spends less than one percent of its general fund on services for youth.

Vote Yes on Measure Y to support community based health, after-school, literacy, recreation, youth employment and social programs that can deliver services to our children and young adults more effectively than ever before. To ensure quality, program grants will be competitive and evaluated – and monitored by a community oversight committee.

“Public safety is our city’s highest priority and why most of the city’s budget goes to police and fire services,” says Derrell Roberts of the Roberts Family Development Center. “By investing more in our children, we can keep them out of police cars and in schools, internships and homework centers.”

Measure Y won’t raise your taxes! It will be paid for by a 5% tax on the cultivation and manufacture of legal marijuana. It will allow us to finally invest in our city’s youth and give them a brighter future. Vote Yes on Measure Y.

s/Jay Schenirer
City Councilmember

s/Christina Fa, M.D.
Pediatrician, Well Space Health

s/Chris McCarty
Director, Sacramento Children’s Home

s/Jessie Ryan
Trustee, Sac City Unified School District

REBUTTAL TO ARGUMENT IN FAVOR OF MEASURE Y

The proponents of measure Y are not being truthful, telling voters the city only spends 1% of the general fund on youth services. This number doesn’t include the parks budget nor measure U funds that go to swimming pools, community centers, teen services, gang prevention programs and more.

Measure Y would take \$4 million dollars in revenue currently slated for the general fund. Money that would otherwise be allocated by the council to whatever is needed most, including youth activities. The council recently took action, directing \$680,000 in funds for youth programs administered by non-profits. That process included public dialogue, open discussion and measured protocols. Measure Y parts from sound policy, instead directing millions of dollars to a restricted fund without establishing a process for allocation and excluding existing city programs from funding.

Measure Y requires a new department which means spending 15% of the money on an unnecessary bureaucracy. While this measure intends to fund non-profits, no funding is allocated to address potential negative impacts associated with the marijuana industry. There are no requirements for drug awareness nor prevention programs and no additional dollars are allocated for code enforcement or police officers in impacted neighborhoods.

We can and should use the marijuana tax revenue to fund services in parks, libraries, arts, public safety, drug prevention and economic development. All of these contribute significantly to the health and development of our youth and our communities. Lets use marijuana tax dollars responsibly. Please vote no on measure Y.

s/Jeff Harris
Councilmember

s/Angelique Ashby
Councilmember

s/Jimmie Yee
Former Mayor, City of Sacramento

s/John McGinness
Sacramento County Sheriff (Ret.), Consultant, California Peace Officers Association

s/Michael Baker
Trustee, Twin Rivers Unified School District

ARGUMENT AGAINST MEASURE Y

Everyone wants to help Sacramento Youth, but this flawed measure is the wrong solution. Under this proposal the funds could not be used to improve our parks, nor keep our pools open and community centers running. It could not be used to help our struggling libraries, rebuild the youth services division of the parks department, nor to address community blight or develop jobs and support small businesses. It could not be used to address rising crime rates or to improve emergency response times.

None of those priorities are funded under this proposal. Instead of serving critical needs of our city this initiative creates a new bureaucracy, and limits the City Council's ability to make sound financial decision for the benefit of all citizens. 70% of the marijuana tax dollars would be distributed to private non-profit organizations that work with youth.

Passage of this measure locks funds up forever, no matter how much revenue is generated, no matter what the critical needs are in our city. That means none of our afterschool programs; summer youth camps, gang task force programs nor summer jobs for youth would be eligible for these funds.

Someday our city will face another recession. These dollars will be untouchable to prevent the type of cuts we have painfully experienced in recent years. We have yet to fully fund baseline service levels in our parks, libraries, code enforcement, animal services or any other department. We owe it to our city to meet community needs before we give funds away.

A no vote on this measure is a yes to public safety, parks, libraries, communities, housing, animal care, arts, civic amenities, transportation, economic development, safe bicycle routes and many city needs. Please vote no on measure Y and tell your city leaders to use marijuana tax dollars responsibly.

s/Jeff Harris
Councilmember

s/Angelique Ashby
Councilmember

s/Robert Gorham
Immediate Past President, Friends of the Sacramento Public Library

s/Shane Singh
Parks Commissioner, City of Sacramento

s/Craig Powell
President, Eye on Sacramento

REBUTTAL TO ARGUMENT AGAINST MEASURE Y

Who should benefit: children in need or politicians? Legal marijuana will be taxed. Where those funds will go is the question. Measure Y will assure they make a transforming difference in the lives of thousands of children.

Vote Yes, because only 1% of the General Fund is spent on children and young people today in a city where 29% live in poverty, and the shelter for homeless teens just closed for lack of funding.

With Measure Y, the city will be able to use the General Fund to make law enforcement, recreation, library and other program improvements that benefit all Sacramento residents.

Vote Yes for Public Safety. Research shows investing in children through community-based programs keeps kids out of trouble, in school, and on the path to becoming productive adults.

“Sacramento spends 85% of the discretionary General Fund on police and fire because public safety is important. But it’s time we invest in programs that prevent children from getting into trouble,” says former Sacramento Police Chief Rick Braziel, a Measure Y supporter.

Vote Yes for Economic Development. Measure Y will help train today’s young people to be ready for tomorrow’s jobs, building a strong, tax-paying workforce. Measure Y will allow us to finally invest in our city’s youth and give them a brighter future.

Children’s programs are always the first to be cut. Measure Y protects those funds from politicians and other special interests and makes sure they are spent only on programs that benefit our kids.

s/Sister Libby Fernandez
RSM - Executive Director, Mustard Seed School for Homeless Children

s/Chris McCarty
Director - Sacramento Children's Home

s/Christina Fa, M.D.
Pediatrician, Well Space Health

s/Julie Weckstein
LCSW - UC Davis Health Systems