

The Fiscal Impact of the Legalization of Cannabis on the Citizens of Santa Cruz

Introduction

Typically a Grand Jury examines local governmental agencies and officials and publishes its investigative findings and recommendations to improve their operations. This investigation and report, however, have been done for the citizens of Santa Cruz to shed light on the fiscal impact of the cannabis legislation that is on the November ballot. The data in this report is based on several statewide assumptions that have been applied to Santa Cruz County, with application being speculative at best.

The report deviates from the typical Grand Jury format by beginning with a preamble. In addition, the report will have no recommendations for action by any group within the county. The only action needed is for the citizens to be informed and ask questions about the potential ramifications of the legislation.

Preamble – Getting the Dope on Dope: The Grand Jury Attempts to Clear the Smoke in the Joint from the Numbers

Following this preamble (perhaps “pre-ramble” would be a better term depending on your state of mind) is the Grand Jury report entitled *The Fiscal Impact of the Legalization of Cannabis on the Citizens of Santa Cruz*. The report itself is very dry and almost mechanical in its content, which is exactly as it was intended. The Grand Jury purposefully left out any personality to its findings in order to present a report that did not in any way (1) overestimate the financial gain or loss to the County, (2) overestimate either increased costs or savings to law enforcement, or (3) consider the moral implications of legalized marijuana. Indeed, in the attempt to analyze said costs and benefits, the Grand Jury was cautioned by many, including County Counsel, not to appear to endorse or condemn any pending legislation. Hmm...then what is the point of doing this investigation? That question is what this “pre-ramble” hopes to answer because, while the report may be dry as cotton mouth or a great martini, the gathering of the information was done for the good of the community.

The issue of legalizing pot has three camps: “those for,” “those against,” and those who “really don’t know.” The “those for” and “those against” camps are set in their beliefs and the statistics spewed from either side have merit but also involve some exaggerations of the truth. Certainly legalizing and taxing pot is not going to end the recession, save our schools, or help create a new “California Euphoria.” Neither is legalization going to send California into a financial abyss where health care and rehab centers are overflowing with masses of the “perpetually stoned.”

Okay, so what is the truth? Can any of the numbers be trusted? Good questions. The more we checked, the more we needed to check. For example, Assembly Bill 390 (AB 390) was introduced by Assemblyman Tom Ammiano to legalize and tax marijuana in California. In response to AB 390, the California State Board of Equalization did a fiscal impact study on the

subject. *All* of the numbers used were estimates. Their findings estimated that ultimately 19 million ounces of pot would be smoked yearly in California upon legalization, and their figures for taxation income are based on a price of \$100 per ounce of marijuana sold. The Grand Jury research of local marijuana dispensaries and street prices show that \$100 per ounce is absurdly low. If that number is low, then is the usage estimation low as well? Who knows? It is illegal; how do you get data?

Many theories surfaced repeatedly as the Grand Jury gathered information:

- Marijuana dispensaries don't want recreational marijuana to be legalized. Why? They fear that legalization will reduce the need for their products and services and thus their income stream.
- Legalization of growth and sales will eliminate or greatly reduce the number of illegal grow houses, drug cartel growers and pot smugglers in California. However, if the price of legalized pot is too high, the black market still could survive by providing cheaper product.
- Legalization with regulation of the quality of marijuana could produce "cleaner" pot, without pesticides or dangerous strength levels.
- Law enforcement is divided on the issue of legalization. Most officials just want definitive laws.
- Legalization of Cannabis (marijuana/hemp) could provide a new California agribusiness.
- Proponents of marijuana legalization cite the income stream generated to the State by the alcohol/wine industry as an example of possible new income to State and local governments. Opponents cite the terrible addiction associated with alcohol and drugs and the accompanying problems and costs.
- Residents and officials of Humboldt County, where reportedly up to 75 percent of the income is generated and various taxes garnered from the growth, production, and sale of marijuana, are afraid that legalization will put them out of business.

So, what's the bottom line? We don't know. Our feeling is that this report is very conservative in its estimates and that legalization and taxation will provide net income gains to Santa Cruz County. But the real bottom line is that, legal or not, many million ounces of pot are going to be smoked by Californians year in and year out. Therefore, the real question becomes: should local government share in pot profits?

So sit back, relax, partake of your favorite beverage, powder, pill, or smoke, and read the following report, which surely will put you to sleep.

Summary

In 1996, the State of California legalized the sale and use of cannabis (marijuana) for medicinal purposes. In recent years several bills and initiatives have been proposed for the expressed purpose of legalizing marijuana for recreational use. California Assemblyman Tom Ammiano introduced Assembly Bill 390 (AB 390) in February 2009, which proposed to legalize, regulate and tax the cultivation, distribution and sale of marijuana in California. While AB 390 was not enacted, several organizations including the California State Board of Equalization, the RAND Corporation, and the Legislative Analyst's Office conducted studies to analyze the financial ramifications to the state upon marijuana legalization. Recently, several new initiatives have been proposed regarding marijuana legalization, and one, the Tax Cannabis 2010 Initiative, has been certified by the California Attorney General's Office and placed on the ballot to be voted on in November 2010.

The Grand Jury reviewed the studies mentioned above and analyzed the data regarding the economic consequences of marijuana legalization. The criteria used in the preponderance of data that has been prepared and is available for review are the monetary effects to the entire State. The Grand Jury has attempted to break down the savings, costs, and revenues from statewide consequences to the possible financial impact on Santa Cruz County alone. Sources and data used are considered reliable; however, all numbers are, at best, estimates only.

The Grand Jury limited its investigation to just the economic effects of marijuana legalization. The moral and social implications of such legalization are not part of this report..

Background

Cannabis sativa is the botanical name of a hardy plant family that grows in a wide variety of conditions, climates, and soil types. Plants from this family can be grown to provide fibers, oil, seeds, and drugs. Because the plants easily interbreed, there is considerable debate among scientists about how to classify them.

To resolve this issue, it has become the practice to focus on the amount of two chemicals, tetrahydrocannabinol (THC) and cannabidiol (CBD), in the plants. The chemical THC is responsible for inducing euphoria or a "high" when people use the plants as a drug. The chemical CBD blocks the euphoric effects of THC. When plants are grown with levels of these chemicals to produce a "high," they are interchangeably referred to as marijuana or cannabis; customarily these terms do not include the hemp plant. "Hemp" refers to plant varieties that have levels of THC and CBD such that there is no euphoric effect.

Hemp is used internationally for making rope, paper, textile products, bird seed, and several thousand other commercial products. Its fibers have the useful property of being naturally strong and durable. For example, hemp cloth is softer yet stronger than cotton, hemp rope does not rot, and hemp paper ages without yellowing. Once legal in the United States, commercial hemp was an agricultural staple of Colonial America. George Washington grew hemp at Mount Vernon, and both the Declaration of Independence and the Bill of Rights were written on high-quality hemp paper.

To deal with rising concerns in the United States of cannabis being used as a recreational drug, laws prohibiting its use began to be enacted in the early 1900's. By the late 1930's more than ten states had passed laws prohibiting the use of marijuana.

In 1937, the United States made the transfer and possession of any variety of Cannabis illegal partly in response to relentless pressure from William Randolph Hearst, the powerful newspaper publisher who purchased newsprint for his papers from timber companies in which he had a significant financial stake. The timber pulp/paper industry was threatened by the cheaper paper produced by hemp growers.

California, Hearst's home state, had criminalized Cannabis in 1913, and it remained illegal here until 1996, when Proposition 215 was passed, allowing the sale and use of marijuana for medicinal purposes. Recreational use of marijuana remains illegal in California, however, and in 2008 more than 78,000 people were arrested for marijuana-related offenses at a total cost to State and local governments of about \$200 million.

In February 2009, Assemblyman Tom Ammiano introduced AB390 to the California legislature to legalize, regulate and tax cannabis. Governor Arnold Schwarzenegger expressed support of an open debate on the subject. A State committee hearing was held in October 2009 to discuss the bill. Additionally, four ballot initiatives dealing with the legalization of marijuana were submitted to the California Attorney General for inclusion in the 2010 election. One of these initiatives, Tax Cannabis 2010, was certified and has been placed on the ballot for November 2010.

California currently is in a period of serious budget crises. State tax revenues have been drastically reduced. Budgets at every level of State and local government have been cut severely. State, County and City employees are being laid off and others are forced to take furlough days. As legislators and citizens look for savings or additional tax revenue, the topic of legalizing and taxing cannabis has gained appeal. Questions about the cost of enforcement and prosecution of marijuana laws have surfaced. What are the costs associated with law enforcement and prosecution in Santa Cruz County? If legalized marijuana were taxed, how much estimated revenue would be generated and how much would the County realize? The Grand Jury endeavored to answer these questions.

Scope

The Grand Jury investigated the monetary impact of the enforcement of current marijuana laws on people within Santa Cruz County as well as the financial effects should marijuana be legalized. The investigation was limited to the costs associated with enforcement, prosecution and incarceration under existing laws and the hypothetical financial repercussions if the cannabis laws were changed. The Grand Jury evaluated the revenue changes associated with sales tax, income tax and special excise taxes (an indirect tax levied, in this case, per ounce of marijuana) and also considered the resource impact to law enforcement, courts and jails.

Assumptions

The Grand Jury assumed for the purpose of this report that the cultivation, transportation, sale, and use of marijuana would be legal in California. If the federal government continued to enforce existing federal marijuana laws, however, this enforcement might disrupt the business activities associated with marijuana in California even if the State were to legalize those activities.

The Grand Jury hypothesized that the following taxes would be levied:

- A County-imposed \$50 per ounce excise tax on marijuana sales
- State sales tax on all sales with \$100 per ounce as the nominal average sales price for purposes of calculating sales tax revenues
- State income tax from people working in the marijuana industry (cultivation, production, sales)

Today Californians use approximately 16 million ounces of marijuana per year. Presumably, if it were legalized, the price would decrease and consumption would increase. The Grand Jury accepts the State Board of Equalization's estimate that, with a \$50 per ounce excise tax, marijuana consumption in California would increase to approximately 19 million ounces per year, which would generate about \$6.46 million in tax revenues to Santa Cruz County annually based upon a per capita allocation.

Findings

Cost Findings

F1. The following are the California State marijuana laws:

- 11357a: possess concentrated marijuana (hashish)- felony
- 11357b: possess less than one ounce of marijuana- infraction
- 11357c: possess more than one ounce of marijuana- misdemeanor
- 11357d: possess marijuana specific circumstances- misdemeanor
- 11357e: possess marijuana specific circumstances- misdemeanor
- 11358: cultivation of marijuana- felony
- 11359: possess marijuana for sale- felony
- 11360a: transportation of marijuana over 28.5 grams- felony
- 11360b: give/transport marijuana/hashish under one ounce- misdemeanor
- 11361b: furnish, et cetera, minor with marijuana- felony

F2. The Santa Cruz County District Attorney uses the equivalent of one Assistant District Attorney (salary about \$108,000/year plus benefits) to prosecute marijuana-related offenses. In 2007 the District Attorney filed 31 misdemeanor and 114 felony charges for marijuana offenses; in 2008 those numbers were 45 and 132.

F3. The Santa Cruz Narcotics Enforcement Team employs two detectives (salary about \$101,000/each/year, plus benefits) and one sergeant (salary about \$136,000/year including

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overtime, plus benefits). About 40 percent of the task force’s time is spent on marijuana offenses, for a total of \$135,200 in salaries and benefits.

Calculation: $\$101,000 * 2 = \$202,000 + \$136,000 = \$338,000 * .40 = \$135,200$

F4. The table below shows the number of marijuana charges filed in the four incorporated cities in the County in 2007 and 2008.

California State Laws	Capitola		Santa Cruz		Scotts Valley		Watsonville	
	2007	2008	2007	2008	2007	2008	2007	2008
11357a	3	4	17	31	1	7	3	3
11357b	53	28	302	545	40	32	105	233
11357c	7	5	7	13	3	3	3	4
11357d			1	5				1
11357e			22	37		5	14	13
11358	1	6	2	10		2	3	2
11359	1	2	34	48	1	2	10	10
11360a			8	17	1		1	
11360b			9	13	1	1		3
11361b			1	5				
Totals	65	45	403	724	47	52	139	269

F5. The approximate amount of officer time required in Capitola to process each marijuana-related case is as follows:

- 11357a: 85 minutes
- 11357b: 61 minutes
- 11357c: 76 minutes
- 11358, 11359, 11360: major cases lasting several hours to several days

F6. Using the amount of officer time required in F5 for Capitola and applying that figure to the charges filed in all four cities, we calculate that for the three offenses 11357a, 11357b, and 11357c, a total of 567 officer hours were spent in 2007 and 947 officer hours were spent in 2008 to process these marijuana related cases.

F7. 1,500 inmates in California State prisons are there for marijuana-only offenses, and the cost per inmate is roughly \$50,000 per year. This puts the annual cost of incarceration of marijuana-only offenders in State prisons at \$75 million. The number of marijuana-only related offenders in Santa Cruz County jails is unknown as the County computer system does not list marijuana-related offenses as a separate category.

F8. Approximately \$200 million is spent annually in California to arrest, prosecute and incarcerate marijuana offenders. (This figure includes the \$75 million from F7 above.) Allocating that cost to Santa Cruz County on a per capita basis would result in annual costs of \$1.36 million.

Calculation: CA population of approximately 38 million people
Santa Cruz County population of 260 thousand people or 0.68 percent
0.68 percent of \$200 million = \$1.36 million in annual costs

Revenue Findings

F9. The Santa Cruz Narcotics Enforcement Team seized approximately \$150,000 in cash and property in 2008 and approximately \$370,000 in cash and property in 2009. The Santa Cruz County Sheriff's Department received a \$30,000 grant in 2009 from the Federal Drug Enforcement Administration (DEA) under the Federal Domestic Cannabis Eradication and Suppression Program (DCESP) specifically to pay for overtime hours, training, and the purchase of equipment specific to marijuana-related crime enforcement.

F10. Santa Cruz County collects an unknown amount of revenue from marijuana-related fines; revenue is unknown because it is not tracked on a per offense basis. The fine for possession of less than one ounce of marijuana (11357b) is up to \$270. However, since the County system doesn't track fines per offense and since the fine amounts vary, the Grand Jury cannot estimate the current revenue for pot offenses.

F11. Based upon our assumptions about legalization and taxes, the State of California would collect approximately \$400 million in additional sales tax revenue; the Counties would collect about \$990 million in excise tax revenue. The State of California would collect additional income tax revenue from people working in the cultivation, production, and sales of marijuana.

F12. The County of Santa Cruz hypothetically would receive \$129,200 in marijuana sales tax revenue from the state. This number was calculated with an assumption of 19 million ounces of annualized statewide consumption allocated on a per capita basis to Santa Cruz County with a minimum sale price of \$100 per ounce.

Calculation: CA population of approximately 38 million people
Santa Cruz County population of 260 thousand people or 0.68%
0.68% of 19 million ounces = 129,200 ounces * \$100/ounce
1% of sales tax revenue is returned to the County
Sales tax to Santa Cruz County of \$129,200

F13. The County of Santa Cruz hypothetically would receive \$6.46 million in marijuana excise tax revenue if the County collected \$50 per ounce. This number was calculated with an assumption of 19 million ounces of annualized statewide consumption allocated on a per capita basis to Santa Cruz County.

Calculation: CA population of approximately 38 million people
Santa Cruz County population of 260 thousand people or 0.68%
0.68% of 19 million ounces = 129,200 ounces
\$50 per ounce * 129,200 ounces = \$6.46 million excise tax

Conclusions

- C1.** Although the federal government recently announced that it would no longer prosecute medical marijuana patients and providers whose actions are consistent with State laws, it has continued to enforce its laws on non-medical marijuana activities. To the extent that the federal government continued to enforce existing federal laws, it would inhibit the legal cultivation, sales, and use of marijuana in California even if the State legalized it for recreational purposes.
- C2.** Santa Cruz County spends considerable resources, roughly \$1.36 million based upon statewide estimates, enforcing existing marijuana laws through law enforcement, the courts, and jails. If marijuana were legal, it could result in savings to our local government by reducing the number of marijuana offenders incarcerated, reducing the associated time and costs for enforcement of marijuana-related offenses, and also the handling of related criminal cases in the court system. Costs associated with new marijuana regulations and the County's collection of excise taxes are unknown.
- C3.** Legalizing marijuana may result in the reduction of County revenues from fines for marijuana infractions, and it could reduce the cash and property seized by the Santa Cruz Narcotics Enforcement Team. It is unlikely that the county would receive another DCESP grant from the DEA. The County could impose additional fines and fees associated with a new law, but the net monetary effect is unknown.
- C4.** The State of California would realize additional revenues from sales taxes generated by retail sales of legal marijuana. Some of those sales taxes, \$129,200 based on the assumptions in this report, would come back to the County. The State also could realize additional income tax revenue from people involved in the business of marijuana cultivation, production, and sales. Santa Cruz County would derive some indirect benefit if the State were in better financial health as a result of marijuana legalization and taxation. Finally, Santa Cruz County would gain direct monetary benefit, \$6.46 million based upon the assumptions in this report, from a \$50 per ounce excise tax. The chart on the next page provides a summary of the Grand Jury's calculations to provide a net estimated increase in revenue to Santa Cruz County of over \$7.5 million if marijuana were legalized for recreational use.
- C5.** It seems clear that, legal or not, millions of ounces of marijuana are going to be smoked each year in California.

Changes in Revenues and Costs Associated With the Legalization of Marijuana

		Inc/(Dec) In Revenues (Inc)/Dec In Costs
<u>Revenues:</u>		
Sales Tax:		
Price per ounce	\$ 100	
Estimate # of ounces to be sold	<u>19,000,000</u>	
Total Sales	\$1,900,000,000	
Santa Cruz County population as a % of total CA population	<u>0.68%</u>	
Sales attributed to Santa Cruz County	\$ 12,920,000	
Santa Cruz County portion of sales tax	<u>1.00%</u>	
Sales tax to Santa Cruz County	<u>\$ 129,200</u>	\$ 129,200
Excise Tax:		
Estimated # of ounces to be sold	19,000,000	
Santa Cruz County population as a % of total CA population	<u>0.68%</u>	
# of ounces attributable to Santa Cruz County	129,200	
Estimated excise tax per ounce	<u>\$ 50</u>	
Excise tax to Santa Cruz County	<u>\$ 6,460,000</u>	\$ 6,460,000
Revenue lost:		
Loss of fines related to marijuana	\$ Unknown	
Loss of DCESP Grant		\$ (30,000)
Estimated Cash and property seized based on 2008 actual – no longer available		\$ (370,000)
<u>Costs:</u>		
Amount spent annually in CA to arrest, prosecute, and incarcerate marijuana offenders	\$ 200,000,000	
Allocate to Santa Cruz County based on CA population	<u>0.68%</u>	
Estimated cost savings to Santa Cruz County	\$ 1,360,000	\$ 1,360,000
Additional possible costs related to legalized marijuana:		
Licensing and collection of taxes, etc	\$ Unknown	
Others	\$ Unknown	
Net Estimated Increase in Revenue to Santa Cruz County		<u>\$ 7,549,200</u>

Recommendations

This report was prepared by the Santa Cruz Grand Jury for the benefit of the citizens of the county, to inform them of the potential financial consequences of upcoming legislation to legalize the recreational use of marijuana. Written to provide information only, this report does not include recommendations.

Sources

Documents

California Legislative Analyst's Office, *Fiscal Impact of Legalizing Marijuana*, October 28, 2009
County of Santa Cruz, County Administrative Office, *Report on Criminal Justice Systems Costs Associated with Non-Violent Drug Offenses*, March 30, 2002
Superior Court of California Bail Schedule

Interviews/Data Collection

Administrators and personnel:

Auditor-Controller's Office, County of Santa Cruz
California Legislative Analyst's Office
California State Assemblyman's Office
California State Board of Equalization
Capitola Police Department
Greenway Compassionate Relief, Representative's Office
Santa Cruz County District Attorney's Office
Santa Cruz County Sheriff's Office
Santa Cruz Police Department
Scotts Valley Police Department

News Articles

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The Post: "Should Marijuana Be Legalized for Recreational Use?" November 6, 2009
The Wall Street Journal: "Saving Mexico," December 26-27, 2009
"Mexican Gangs Grab Public Lands for Pot Farms", March 5, 2010

Video

California Assembly Public Safety Committee: Marijuana Legislation, October 28, 2009
CNBC: *Marijuana Inc.*

Web Sites

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