

Proposed Cardroom Revenue Measure for the November 3, 2020 Election

August 4, 2020

San José City Council Meeting

Recommendation

Adopt a Resolution of the City Council:

(a) Calling and giving notice, on its own motion, for a Special Municipal Election to be consolidated with the Statewide General Election on November 3, 2020, to submit to the electors of the City of San José a measure to increase the cardroom tax on the gross revenues of cardrooms, add a new tax on the gross revenues of third party providers of proposition player services and increase the number of card tables with the following statement of the measure to be printed in the ballot:

To fund general San José services, including fire protection, disaster preparedness, 911 emergency response, street repair, youth programs, addressing homelessness, and supporting vulnerable residents, shall an ordinance be adopted increasing the cardroom tax rate from 15% to 16.5%, applying the tax to third party providers at these rates: up to \$25,000,000 at 5%; \$25,000,001 to \$30,000,000 at 7.5%; and over \$30,000,000 at 10%, increasing card tables by 30, generating approximately \$15,000,000 annually, until repealed?

Recommendation

Adopt a Resolution of the City Council:

- (b) Directing the City Clerk to, pursuant to Elections Code Section 12111, cause a synopsis of the proposed measure to be published at least one time not later than one week before the election in the Mercury News, a newspaper of general circulation within the City of San José, instead of printing the full text of the measure in the Sample Ballot;
- (c) Authorizing the City Council or any member or members of the City Council to submit a ballot argument in favor of the measure, pursuant to Elections Code Section 9282;
- (d) Authorizing the submittal of rebuttal arguments pursuant to Elections Code Section 9285;
- (e) Directing the City Attorney to prepare an Impartial Analysis of the measure pursuant Elections Code Section 9280; and
- (f) Directing the City Clerk to take all other actions necessary to place this measure on the November 3, 2020 ballot.

Cardroom Tax and Card Tables

- 1991-1992: Council approved a cardroom ordinance which included a Cardroom Tax to tax gross revenues from cardrooms
- June 9, 1992: Council amended the ordinance to increase the tax rate schedule and expand the games authorized. A gross revenues monthly tax schedule was established ranging from **1% to 13%**
- 1993-1994: Council approved a revision to the ordinance, instituting a flat **13%** gross revenues tax for all cardrooms with annual gross revenues in excess of \$10,000
- June 2010: Voters approved Measure K, which increased the Cardroom Tax to **15%** and increased the **maximum number of card tables from 40 to 49 per cardroom**
- While the State has authority over gaming regulations and the expansion of gaming in cities, the State has no authority to review or comment on the City's Cardroom Tax

San José Municipal Code – Title 16

- Enacted by the City Council on November 9, 1999 and restructured the City's gaming regulations
- Establishes the City's gaming control regulatory program and sets the local requirements associated with expanding gaming within the City
- States that the City Council shall not take any action to expand gaming without voter approval
- Defines "expansion" to include an increase in: cardrooms or cardroom tables; use of slot machines/devices; and any form of gambling which is not allowed under the SJMC, or which is prohibited under state gambling law, on or before June 30, 1996
- Gaming in San José is also regulated under provisions of the State of California Gambling Control Act:
 - Requires voter approval to increase the current number of gambling tables
 - Any proposed Title 16 amendment, whether by a City Council adopted ordinance or a measure approved by the voters, must be submitted to the State for review and comment before adoption

Previous Council Direction

- June 27, 2018: Council directed the Administration to analyze and develop recommendations to extend the 15% Cardroom Tax to the Third-Party Proposition Player Services (TPPPS) businesses operating in the City, engage the City's two cardrooms on alternative approaches, and return to Council in August 2018.
- The Administration met with both San José cardrooms regarding a potential revenue measure for the November 6, 2018 ballot. These conversations included:
 - Increasing the Cardroom Tax rate
 - Increasing the number of card tables
 - Extending the Cardroom Tax to TPPPS businesses
- August 7, 2018: The Administration recommended the City defer placing a cardroom revenue measure on the 2018 ballot. Council directed the City Manager and City Attorney return with ballot language and a resolution for Council consideration for placement on the March 3, 2020 ballot.

Proposed Cardroom Tax and Additional Tables

- In 2018-2019, the 15% Cardroom Tax generated ~ **\$18.9 million**
- Through February 2020, the 2019-2020 Cardroom Tax was on pace to generate \$18.9 million, but due to cardrooms not being open during the pandemic, the new estimated revenue is ~**\$13.5 million**
- 2020-2021 Adopted Budget includes a Cardroom Tax estimate of **\$17.1 million**
 - Due to uncertainty regarding when the cardrooms can reopen, and social distancing requirements, this revenue estimate will be closely monitored
- The Administration recommends increasing the Cardroom Tax rate to **16.5%**
- If passed by voters, the tax increase would take effect on January 1, 2021
- The Administration recommends increasing the number of card tables in the city by **30 tables total** (15 for each cardroom)
- Assuming normal operations, approximately **\$11 million** may be generated on an annual basis from the increased Cardroom Tax on gross revenues (\$2 million) and the additional 30 cardroom tables (\$9 million)

Third-Party Proposition Player Services (TPPPS)

- The Administration recommends a new tax on TPPPS gross revenues
- Each TPPPS with total annual gross revenues in excess of \$10,000 will pay a tax on its total annual gross revenues derived from its TPPPS activities in the City:
 - Annual gross revenues up to \$25,000,000, the tax rate imposed shall be **5%**
 - Annual gross revenues \$25,000,001 to \$30,000,000, the tax rate imposed shall be **7.5%**
 - Annual gross revenue greater than \$30,000,000, the tax rate imposed shall be **10%**
- Tax becomes effective January 1, 2021
- Taxes shall be paid monthly
- Assuming normal operations, approximately **\$4 million** may be generated on an annual basis from the new TPPPS tax

Summary of Potential Revenue

Cardroom Revenue	Potential Annual Revenue
Cardroom Tax Increase (15% to 16.5%)	\$2 million
30 Additional Tables	\$9 million
Third-Party Proposition Player Services (TPPPS)	\$4 million
Total	\$15 million

Election Requirements

- A resolution to submit to the electors of the City of San José a measure to enact a cardroom revenue measure must be adopted and submitted to the Santa Clara County Registrar of Voters by **August 7, 2020**
- The Administration recommends these additional items:
 - Publishing a synopsis of the proposed measure in the *Mercury News*, instead of printing the full text in the Sample Ballot
 - Authorizing a Council designee to submit a ballot argument in support of the measure
 - Authorizing the submittal of rebuttal arguments
 - Directing the City Attorney to prepare an Impartial Analysis of the measure in accordance with Elections Code 9280
 - Directing the City Clerk to take all other actions necessary to place this measure on the November 3, 2020 ballot

Questions