

SONOMA COUNTY CIVIL GRAND JURY 2016-2017
County Sales Tax Limitations
05/16/2017

SUMMARY

The Sonoma County Board of Supervisors has run out of runway when it comes to raising revenues through sales taxes. In the best-case scenario, if voters approved the maximum available sales tax, they could raise about \$30 million per year. This is a problem because the Board of Supervisor's own planning documents highlight the need for \$150 million in new funding each year for the next five years. Simply put, either the Board of Supervisor's plans are unrealistic or they need to identify significant new sources of funding. Without further revenues or large cuts to current expenditures, citizens and their elected officials will confront difficult choices between re-allocating resources and deferring priorities indefinitely.

Sales taxes are one of the few means at the County's disposal to increase funding. California law limits the amount of sales tax a city or county can levy on its citizens. As of January 1, 2017, the statewide sales tax is 7.25% and voters can authorize cities and counties to add up to 2% for local needs. If any city within a county reaches the 9.25% total sales tax the cap is triggered.

In Sonoma County, the City of Cotati's sales tax rate will be 9.125% (See Table 2). Therefore, under existing sales tax limits, the biggest *countywide* sales tax increase the Board of Supervisors can propose is 0.125%. In dollar terms this means the County would raise only about \$10 million before hitting the state ceiling.

Additionally, after adding a 0.125% countywide sales tax, the Board of Supervisors has the ability to increase the County sales tax. This is levied anywhere in the County that is outside the nine incorporated cities (the unincorporated area). The Board of Supervisors could ask voters to increase sales taxes in the unincorporated area of the County by up to 1%. If fully used, this increase would raise about \$20 million per year. The combined countywide and unincorporated county sales tax, if approved by voters, would yield about \$30 million per year.

On the spending side of the ledger, Sonoma County Budget documents highlight over \$150 million of "Unmet Funding Priorities" *annually* through fiscal year 2019-20 (Appendix A). These unmet priorities are not obligatory or legally required spending. They include monies to pay down pension liabilities, to improve the condition and

maintenance of County roads, to complete deferred maintenance projects on County owned buildings, to address homelessness and to fund other critical public services.

In the best-case scenario noted above, the Sonoma County Board of Supervisors could generate about \$30 million per year in sales tax revenues. This is only one-fifth of the funding the County says it needs to fulfill its goals. Without the ability to raise sales taxes above the current limit, the County will need to either defer these priorities or cut other spending.

The Sonoma County Civil Grand Jury recommends that the Board of Supervisors take the necessary steps to obtain State legislation that would authorize an increase in the sales tax limit so that the County will have the ability to ask voters to approve increased revenues should that become necessary. The Sonoma County Civil Grand Jury also recommends that whenever the Board of Supervisors puts a sales tax measure before voters, they must affirm that it addresses unmet funding priorities outlined in their budget document or adopt a resolution amending those priorities.

BACKGROUND

The Sonoma County Civil Grand Jury initiated this investigation in order to understand the limits on the Sonoma County Board of Supervisors' ability to raise funds through sales taxes and the corresponding budget challenges facing the County today. The sales tax ceiling also applies to cities and independent special districts such as the Sonoma County Public Library and the Sonoma Marin Area Rail Transportation District (SMART). The Sonoma County Civil Grand Jury did not specifically investigate the disparity between the budget needs of those entities and the restrictions imposed by the sales tax cap.

METHODOLOGY

The Sonoma County Civil Grand Jury conducted interviews with representatives from: the County Administrators Office, Sonoma County Auditor-Controller-Treasurer-Tax Collector's Office and the Board of Supervisors. The Sonoma County Civil Grand Jury examined documents provided by these sources as well as the California Board of Equalization, County staff and other on-line resources.

DISCUSSION

California Proposition 13, passed in 1978 limiting property tax increases, forced cities and counties to rely heavily on sales taxes to fund programs and increases in their budgets.

California's 2% Sales Tax Cap

Section 7251.1 of the California Revenue and Taxation Code caps local sales taxes in any jurisdiction at 2% on top of the State's own 7.25% sales tax. Without a specific state law permitting it, no jurisdiction may exceed the 2% cap. There are currently only three counties out of 58 in California whose sales tax rate exceeds 9.25%. These are Alameda, Contra Costa and Los Angeles. San Mateo and Monterey counties have requested and received legislation to raise their ceiling. These measures have been approved by the Legislature and signed by the Governor, but the authority granted has not yet been used.

Sonoma County Taxing Authority

In Sonoma County, several independent taxing authorities may submit sales tax measures to the voters. All sales taxes, except 'general fund' sales tax measures, require a two-thirds majority of voters to pass. Sales taxes whose proceeds will be used for general, non-specific, operations require only a simple majority to pass. Sales taxes are submitted for approval only to the voters who will be paying the tax. Jurisdictions with the authority to place sales taxes on the ballot include:

- The Sonoma County Board of Supervisors can place two types of sales tax measures on the ballot:
 - Countywide: imposed in the entire County
 - Unincorporated County: imposed only outside the nine incorporated cities
- City councils can place sales tax measures on local ballots for application within their jurisdiction.
- Joint Power Agencies (JPA) and Special Districts, if endowed with the authority, can place sales tax measures on the local ballot for application within their jurisdiction.

There is no requirement for any of these jurisdictions to consult with each other when exercising their authority to submit a sales tax measure to their voters.

2016 Elections and the Sales Tax in Sonoma County

In November 2016, four sales tax measures were proposed to voters. Santa Rosa submitted Measures O and N to amend/extend existing sales taxes. The Sonoma County Board of Supervisors proposed Measure J, a 0.5% sales tax on transactions in the unincorporated areas of the County in support of the County Regional Parks system. The Sonoma County Public Library Joint Powers Authority proposed Measure Y, a 0.125% countywide sales tax to support their operations.

The Parks measure failed by a small margin and the Library tax passed thereby adding the 0.125% sales tax countywide. The Santa Rosa taxes also passed but did not change the overall tax rate of that city because they revised existing measures. No jurisdiction exceeded the 2% cap as shown in the table below:

TABLE 1: COUNTY OF SONOMA NOVEMBER BALLOT MEASURES

Entity	Ballot Measure	Proposed Sales Tax	Votes to Pass	Election Results	New Local Tax Rate - 2% Max
County of Sonoma	J	0.5%	2/3	Failed	0.875%
City of Santa Rosa	N	0.25%	Majority	Passed	1.1375%
City of Santa Rosa	O	0.25%	2/3	Passed	1.375%
City of Sonoma	U	Extend 0.5%	Majority	Passed	1.375%
County of Sonoma	Y	0.125%	2/3	Passed	0.875%

One reported objection to the Parks measure was that County Parks serve all citizens of Sonoma but the sales tax applied only to the citizens of the unincorporated districts of the County. Opponents of the measure argued, in part, that it is unfair to tax one group of citizens for a service that benefits another group or all citizens.

In addition, it is important to note that addressing park system needs does not appear on the Sonoma County Board of Supervisors' list of unmet funding priorities outlined in the March 8, 2016 mid-year budget review documents. The Board of Supervisors voted to place the Parks Sales Tax on the unincorporated County on the ballot without explaining why the Park system's finances superseded the previously established unmet funding needs that the Board had identified.

Issues with the 2% Cap

In Sonoma County, total sales taxes range from 8% to 9.125%. A table listing County sales taxes by jurisdiction has been included below. It lists the various County sales taxes that each jurisdiction has accumulated towards the 2% allowed. Cotati's sales tax rate of 9.125% places it 0.125% away from triggering the cap. Sebastopol is next with a margin of 0.375% before reaching the 2% limit.

SALES TAX BREAKDOWN BY JURISDICTION

The sales tax (including state and local portions) is capped at 2% above State Sales tax by state law.

*(Sales Tax Cap set by State of California); **(Effective April 2017)

Tax Measures	Unincorporated Sonoma County	Cloverdale	Cotati	Healdsburg	Petaluma	Rohnert Park	Santa Rosa	Sebastopol	Sonoma	Windsor
State - Sales & Use Tax	7.25%	7.25%	7.25%	7.25%	7.25%	7.25%	7.25%	7.25%	7.25%	7.25%
Potential Jurisdiction Add*	2.00%	2.00%	2.00%	2.00%	2.00%	2.00%	2.00%	2.00%	2.00%	2.00%
Max Allowable Sales Tax in County	9.25%	9.25%	9.25%	9.25%	9.25%	9.25%	9.25%	9.25%	9.25%	9.25%
Cotati - Measure G			1.00%							
Healdsburg - Measure V				0.50%						
Rohnert Park - Measure A						0.50%				
Santa Rosa - Measure P										
Santa Rosa - Measure O							0.25%			
Sonoma County - Measure M (SCTA)	0.25%	0.25%	0.25%	0.25%	0.25%	0.25%	0.25%	0.25%	0.25%	0.25%
Sonoma County - Measure Q (SMART)	0.25%	0.25%	0.25%	0.25%	0.25%	0.25%	0.25%	0.25%	0.25%	0.25%
Sonoma County - Measure F (Ag & Open Space)	0.25%	0.25%	0.25%	0.25%	0.25%	0.25%	0.25%	0.25%	0.25%	0.25%
Sebastopol - Measure Y								0.25%		
Sebastopol - Measure T								0.50%		
Sonoma - Measure U (extend old J)									0.50%	
Sonoma County Public Library (JPA) - Measure Y**	0.125%	0.125%	0.125%	0.125%	0.125%	0.125%	0.125%	0.125%	0.125%	0.125%
Santa Rosa - Measure N							0.250%			
Total Sales Tax added by Jurisdiction	0.875%	0.875%	1.875%	1.375%	0.875%	1.375%	1.375%	1.625%	1.375%	0.875%
Total Sales Tax by Jurisdiction	8.125%	8.125%	9.125%	8.625%	8.125%	8.625%	8.625%	8.875%	8.625%	8.125%
Max Available Countywide Tax Growth (Low # governs to stay under cap)	1.125%	1.125%	0.125%	0.625%	1.125%	0.625%	0.625%	0.375%	0.625%	1.125%

Table 2 – Sales Tax Breakdown by Jurisdiction

No **countywide** sales taxes may be proposed once any jurisdiction in the county reaches the 2% cap. That does not preclude individual cities from submitting additional local sales taxes to their voters, but it does preclude the Board of Supervisors or any other entity from proposing countywide sales tax measures. That makes Cotati, with a 1.875% local sales tax rate, the tail that wags the dog.

If Cotati voters approved a 0.125% sales tax then the 2% cap would go into effect and the Board of Supervisors would be unable to propose a countywide 0.125% sales tax. Cotati would raise about \$200-400,000 for its needs, but the County would lose the ability to raise about \$10 million per year for its needs. The County and Cotati (with Sebastopol not far behind) are effectively in a race for sales tax dollars.

The County's Two Pockets -The unincorporated areas and the County as a whole

The Sonoma County Board of Supervisors may submit proposed sales taxes to voters in the entire County or to just the voters in the unincorporated areas. The sales tax rate in the unincorporated County is 8.125%, giving the County more leeway to generate revenues from that 'pocket' if they can overcome the fairness question that helped scuttle the Parks Measure. There are two possible scenarios for the County:

- Voters in the unincorporated areas could approve increasing the County’s sales tax by 1.125% to the 2% maximum. Such a hike would raise about \$24 million per year and by triggering the cap – the County would be out of sales tax options.
- Alternatively, if Cotati does not act first, the Board of Supervisors could ask all County voters to approve a countywide 0.125% sales tax. If successful, that increase would raise \$10 million per year. This would still leave the County with 1% room under the cap that, if used, would raise about \$20 million per year. This ‘best case’ scenario combination of countywide and unincorporated sales tax increases would raise about \$30 million per year.

Either possibility provides only about one fifth of the funds the Sonoma County Board of Supervisors says it needs to spend.

The County Budget Challenge

In their planning documents, the Board of Supervisors identified a number of ‘unmet funding priorities’ through fiscal year 2021. The detailed list of over \$150 million is attached as Appendix A. Major line items in round numbers are:

- reducing unfunded pension liabilities\$23 million
- increasing road maintenance and paving..... \$24-31 million
- addressing homelessness.....\$11 million
- deferred maintenance on County properties.....\$23-32 million
- universal preschool\$29 million
- Roseland annexation costs\$20 million

These line items are not legal obligations. These ‘unmet funding priorities’ reflect the Board of Supervisors strategic planning goals. Despite the urgency of some of these items, as highlighted in recent Civil Grand Jury reports (eg Roads, Pensions), it is only their wish list.

A quick look at the Sonoma County budget puts the wish list in perspective. The 2016/17 General Fund Budget is about \$430 million. Almost half of General Fund expenditures are salary and employee benefit related. Many programs and budget line items are long-term commitments. When these are added to the employee costs, all but about 1% or 2% of the General Fund is ‘spoken for’ or allocated. The balance amounts to only between \$5-10 million per year over which the Board of Supervisors exercises discretionary authority. This leaves them with a fraction of the money necessary to make a dent in their unfunded priorities.

Difficult Choices

The Board of Supervisors is not without options with respect to the sales tax ceiling. Any county may, through its state representatives, propose a legislative bill requesting relief or exemption from the 2% cap. If passed and signed by the Governor that county may then increase local sales tax rates to the newly legislated ceiling. Although Governor Brown has refused to sign a statewide waiver, there is no indication that he or the legislature would ignore a local initiative.

Voters have final say on any proposed sales tax. For citizens to have confidence that such taxes are justified, the Sonoma County Board of Supervisors must be as transparent and consistent as possible in explaining the funding needs and priorities they have established. We do not recommend any specific sales tax measure but feel strongly that the Sonoma County Board of Supervisors needs to have the tools at its disposition to address funding needs.

FINDINGS

- F1. There are no mechanisms in place to coordinate between Sonoma County jurisdictions on sales tax measures.
- F2. The County's current revenue raising is limited to 1.125% in the unincorporated County which is equal to about \$24 million per year, but that capability may be limited if the burden for countywide services is perceived as being unfairly placed on rural residents.
- F3. Cotati's sales tax rate now stands at 9.125%, restricting the Sonoma County Board of Supervisors' ability to increase revenues on a countywide sales tax measure to 0.125% or about \$10 million per year.
- F4. Given the size of the County's unmet funding needs (\$150m) compared to the discretionary funding available to the Sonoma County Board of Supervisors (@\$10m) it is quite possible that further sales tax measures will be put before voters, but the amount of such sales tax is limited by the current sales tax cap.
- F5. There is precedent for the Board of Supervisors to request an increase in the Sales Tax Cap because five California counties have already sought and obtained legislative relief from the sales tax cap.
- F6. The Sonoma County Board of Supervisors did not adhere to the priorities described in its 2016 Work Priorities Document when they voted to propose a Sales tax for Parks on the residents of the unincorporated county.

- F7. The Parks sales tax measure was defeated in part because voters rejected the notion that unincorporated residents should pay the cost of services enjoyed by all citizens of the county.

RECOMMENDATIONS

The Sonoma County Civil Grand Jury Recommends that:

- R1. The Sonoma County Board of Supervisors develop a formal process to work with cities, independent special districts and JPA's to coordinate future sales tax measures to ensure sales tax revenues are maximized across all jurisdictions. (F1)
- R2. The Sonoma County Board of Supervisors immediately, but not later than August 31, 2017, submit a request to it's State Assemblyman or State Senator to draft legislation necessary to obtain an exemption to the 2% ceiling in County sales tax authority (F2, F3, F4, F5).
- R3. The Sonoma County Board of Supervisors immediately, but not later than August 31, 2017, draft and adopt a policy that any sales tax increase measure they propose to voters be accompanied by a resolution clearly stating either:
- How the resulting funding increase matches the funding priorities previously established by the Board of Supervisors, or
 - If the sales tax addresses a new budget item, a comprehensive statement explaining why priorities are being revised (F6, F7).

REQUIRED RESPONSES

Pursuant to Penal Code section 933.05, the Sonoma County Civil Grand Jury requires responses as follows:

- R.1, R.2, R.3 Sonoma County Board of Supervisors

The governing body indicated above should be aware that the comment or response of the governing body must be conducted subject to the notice, agenda, and open meeting requirements of the Brown Act.

BIBLIOGRAPHY

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County of Sonoma Agenda Summary Report: 2015, Board of Supervisors /Directors

Sales Tax -Codes and Explanation: Local Decisions Regarding TUTs Drive Rate Differences

California Sales and Use Tax Rates by County and City: 2016: State of California Board of Equalization.

California District Sales and Use Tax Rates: 2016_District Taxes, Rates, and Effective Dates; California Board of Equalization

County of Sonoma Summary Report: 8/2016; Adoption of Transient Occupancy Tax Ordinance and Call Election on Same; Board of Supervisors

First Amended and Restated Joint Powers Agreement for the County-Wide Provision of Library Services by the Sonoma County Library 2014

Budget Mid-Year Update & 2016 Budget Policy Workshop: Sonoma County Board of Supervisors/Directors

Report of Independent Citizens Advisory Committee on Pension Matters: June 2016; County of Sonoma

Research 7 statistics: CA Gov. Board of Equalization: 8/16

The Challenge of Taxing Services: Tax and Fiscal Facts; California Tax Foundation; 2014

Understanding Proposition 218: Legislative Analyst's Office, December 1996

A look at Voter-Approval Requirements for Local Taxes: 2014; Legislative Analyst Office

APPENDIX A: COUNTY BUDGET UNFUNDED PRIORITIES

In their Budget Policy presentation of March 8, 2016, in the table below, Sonoma County staff identified \$157 million of Unfunded Priorities for each of FY 2016-17 through FY 2019-20. These spending items derive from the Board of Supervisors Work Priorities and Strategic Planning documents. It is important to point out that these are goals not obligations. They are the estimated costs of implementing long term strategic goals identified by County staff and the Board of Supervisors.

**FY 2016-17 Budget Policy Recommendation C
Long Term Fiscal Sustainability
Unfunded Priorities Table**

		Projected FY 16-17	Projected FY 17-18	Projected FY 18-19	Projected FY 19-20
SAFE, HEALTHY & CARING COMMUNITY					
Universal Preschool	Item #18 of the Board's 12/2/2014 The average annual cost of center-based preschool in the County per child per year is \$9,888. In Sonoma County, bridging to gap to make quality preschool available for all three and four-year old children would cost approximately \$19.2 million per year for staff and materials. The cost to expand system capacity would be approximately \$48.8 million to create 98 new classrooms.	19,200,000	19,200,000	19,200,000	19,200,000
Preschool Rooms		9,760,000	9,760,000	9,760,000	9,760,000
Affordable Housing	CDC 8-25-15 Board Report on housing needs identified 2,000 units are needed to house homeless residents. Total preliminary investment estimate was identified at \$110 Million over 10 years.	11,000,000	11,000,000	11,000,000	11,000,000
Health & Human Services Working Capital Needs	Service delivery costs are incurred months sometimes years before the granting sources reimburse the county. Thus, a working capital deficiency causes ongoing negative cash position not permitted by the ACTTC. A \$30M negative cash over a the FY has been experienced in most recent fiscal years.	6,000,000	6,000,000	6,000,000	6,000,000
Integrated Justice System State IT Interface Development	New data exchange system being implemented by the State will require Sonoma County's system to have data interfaces.	1,000,000	1,000,000	1,000,000	0
Living Wage	Departments estimated increased contract costs.	500,000	500,000	500,000	500,000
SAFE, HEALTHY & CARING COMMUNITY		47,460,000	47,460,000	47,460,000	46,460,000

**FY 2016-17 Budget Policy Recommendation C
Long Term Fiscal Sustainability
Unfunded Priorities Table**

		Projected FY 16-17	Projected FY 17-18	Projected FY 18-19	Projected FY 19-20
INVEST IN THE FUTURE					
Roads Pavement Preservation Program -Annual Requirement	Recent staff identifies the following amount as the annual funding required to achieve a 68 "Good range" Pavement Preservation Index.	\$ 24,700,000	\$ 31,200,000	\$ 34,000,000	\$ 34,000,000
Build General Fund Reserve to 15% of GF Revenues Projected	Existing Board policy seeks to achieve a 15% GF main reserve, which has been identified as the adequate level to address GF funded economic uncertainties. Besides the FY 15-16 appropriation to add to reserves of \$724k, the Board authorized \$5.6M of FYE 14-15 savings be added to Reserve, which now stands at \$49M or 11.4% of GF Adopted Revenues.	5,900,000	5,910,000	8,500,000	1,025,000
Pension Liability	FY 15-16 Budget Hearings materials (attachment G) identified that to achieve the desired funding level of 95%-105%, assets to liabilities in the retirement fund. Working from the latest valuation report (December 2014), the plan was at 91.4% funded and the total amount of funding needed to bring the retirement fund to 95% assets to liabilities would be \$95.2 million. This figure, divided by 4.	23,800,000	23,800,000	23,800,000	23,800,000
County Facilities: 5-Year Capital Project Plan for Government Facilities.	The 3/17/15 Board received 5-YR capital project includes a number of Government facilities (not including Roads, CDC, or Water Agency) improvements without identified funding.	32,785,000	28,936,000	23,879,000	31,135,000
INVEST IN THE FUTURE		87,185,000	89,846,000	90,179,000	89,960,000

FY 2016-17 Budget Policy Recommendation C
 Long Term Fiscal Sustainability
 Unfunded Priorities Table

		Projected FY 16-17	Projected FY 17-18	Projected FY 18-19	Projected FY 19-20
ECONOMIC & ENVIRONMENTAL STEWARDSHIP					
SW Santa Rosa Annexation - Annual Shortfall	Most recent City of Santa Rosa consultant analysis has identified a revenue shortfall to provide public services, as a result of the annexation.	1,800,000	1,800,000	1,800,000	1,800,000
SW Santa Rosa Annexation - Infrastructure Needs	City of SR estimates a number of roads, parks, and miscellaneous infrastructure investments needed for public services. Total amount is \$77M and it is spread over 4 yrs. for this presentation purpose.	19,250,000	19,250,000	19,250,000	19,250,000
Community & Youth Engagement	Build on existing resources in HR to: create a more robust internship program; maintain the youth engagement portal on the County website of County-wide opportunities; retain a vendor to provide youth development services for the County; establish a County Youth Commission; expand and support youth seats on existing boards and commission; and identify metrics, outcomes and tracking to assess program effectiveness.	325,000	325,000		
ECONOMIC & ENVIRONMENTAL STEWARDSHIP		21,375,000	21,375,000	21,050,000	21,050,000

FY 2016-17 Budget Policy Recommendation C
 Long Term Fiscal Sustainability
 Unfunded Priorities Table

		Projected FY 16-17	Projected FY 17-18	Projected FY 18-19	Projected FY 19-20
CIVIC SERVICES & ENGAGEMENT					
Voting System Replacement	Existing system has reached its useful life. Its service and repair needs are no longer supported given the older technology.	1,000,000	1,000,000	1,000,000	
GRAND TOTAL		157,020,000	159,681,000	159,689,000	157,470,000

Reports issued by the Civil Sonoma County Civil Grand Jury do not identify individuals interviewed. Penal Code Section 929 requires that reports of the Sonoma County Civil Grand Jury not contain the name of any person or facts leading to the identity of any person who provides information to the Civil Sonoma County Civil Grand Jury.