

# **The Pot Tax**

## **Helping kids at the expense of the general fund**

**By Craig Powell**  
**Inside City Hall**

Jay Schenirer means well, he really does. But programs launched with the best of intentions are no guarantee of sound policy or effectiveness, as Schenirer's recent proposal confirms.

His basic idea is to dramatically increase city funding of programs for children and young adults by getting voters in June to approve a "new" 5 percent tax on marijuana cultivation, with the proceeds directed exclusively to youth services, bypassing the city's general fund. Schenirer and his hardworking staff have spent the past year compiling research studies that show the benefits such programs can have on outcomes for kids.

Schenirer is certainly not new to youth issues: He's spent most of his adult life working on them—in state service, on the city school board, as an education consultant and as the founder of youth-focused nonprofits since his 2010 election to the city council. (He's raised more private funds for these nonprofits from corporations and foundations than any other councilmember with the exception of our city's star private fundraiser, Mayor Kevin Johnson.) Schenirer is almost certainly the council's foremost authority on youth issues, with Rick Jennings—the long-term CEO of the Center for Fathers and Families who served on the city school board alongside Schenirer—a close second.

Schenirer and his staff have prepared a thoughtful 22-page blueprint for how to create a new city department of youth services, an idea that city manager John Shirey threw cold water on by calling it a wasteful increase in city overhead. Shirey prefers to have the parks department, which administers the city's current youth services programs, handle any expansion of such programs.

As chair of the council's powerful Law & Legislation Committee and an influential member of Johnson's ruling coalition on the council, Schenirer was able to use his considerable influence to secure council approval of his plan to put the pot tax on the June ballot. But the ballot measure garnered only the five-vote majority needed to pass, with members Jeff Harris, Angelique Ashby and Larry Carr opposing the plan and Allen Warren abstaining. Since proceeds from the tax would be dedicated to a single purpose, it would be deemed a "special tax" requiring approval by two-thirds of those voting.

The main opposition to Schenirer's tax plan will come from those who strongly object to the idea of diverting tax proceeds from the city's troubled general fund, which faces projected growing deficits leading to a major fiscal cliff in 2019, when the Measure U one-half-percent sales tax expires and the full effect of escalating city pension contributions kicks in. That's the reason three councilmembers opposed putting the pot tax on the ballot. That's also why the Sacramento Police Officers Association has come out against the tax. Shirey opposes it for the same reason: It's an exercise in ballot-box budgeting that would tie the hands of the city council in coping with future financial difficulties while doing nothing to help the city's current financial challenge of closing upcoming budget deficits or facing down the coming fiscal cliff.

There is probably not a member of the council who wouldn't like to fund youth programs at higher levels. But they have the real-world responsibility of weighing such spending against other budget priorities, like police staffing, fire services, park maintenance, code enforcement, libraries, waterfront development, animal control and, most acutely, looming budget deficits. It is bad policy to elevate funding for youth programs above all other funding by placing it in a proverbial lockbox. It's also likely to lead to a stampede of future ballot measures to create similar revenue lockboxes for police, fire, parks, etc., leading to a budget straightjacket that would leave the council with little flexibility to deal with economic downturns. We all can see the harm that ballot-box budgeting has done to the finances of the state and federal governments. Everything works fine so long as the economy is humming along nicely. But a drop in revenue can lead to huge cuts in some programs and departments while funding subject to lockboxes rides out the storm largely untouched.

The pot tax has a "maintenance of effort" provision that says that youth services funded by the tax can be cut in the future, but only by a percentage that is not more than percentage cuts made to the city's other nonpublic-safety departments on average. But is that any way to run a city government, junking the city council's budgetary discretion and replacing it with a fixed mathematical formula?

We get it that Schenirer really, really, really wants to increase city spending on youth programs, but there is nothing preventing him and four of his council colleagues from voting for such higher spending as part of the city's annual budget cycle each spring. They just have to be willing to take the heat for reducing spending elsewhere in order to free up the funds for youth programs. And that heat is exactly what Schenirer and the other council supporters of the tax proposal want to avoid.

Steven Hansen, one of the five councilmembers who supported the tax, said that Schenirer demonstrated "courage" in proposing the plan. Far from it. His ballot measure is a retreat from fiscal responsibility and open debate on budget priorities, and a sign that five councilmembers appear to be in deep denial over the city's looming general fund budget deficits.

Despite Schenirer's yearlong effort to research youth programs, the pot-tax proposal was badly rushed, bypassing the council's established procedures for considering legislation, a bad habit that the council too often resorts to on controversial proposals. Rather than risk having controversial proposals sidelined by careful, methodical review, proponents use political muscle to rush proposals to a final council vote before opponents have a chance to organize an effective opposition. I've dubbed the practice the City Hall Hustle.

In this case, Schenirer chose to shepherd the legislation himself rather than relying on city staff to research and vet the proposal (since staff opposes it). He brought his proposal before the Law & Legislation Committee (which he chairs) two weeks before the council voted on it. Normally, committee reviews proposed legislative language line by line, but Schenirer brought to the committee only a two-page memorandum outlining his proposal. Even that proposal was trumped by a late-breaking deal apparently worked out between Schenirer and lobbyists and managers of local pot dispensaries.

Schenirer's original memorandum proposed that the city's current tax on sellers of marijuana be increased from 4 percent to 10 percent of gross sales, and that a smaller tax of 2.5 percent be imposed on sales by marijuana growers. The current tax (characterized as a business operations tax, or BOT) applies to all marijuana sellers, whether they are medical pot dispensaries, future recreational pot retailers (should California voters legalize recreational pot this year, as polls indicate they just might) or pot growers. But pot dispensaries and their lobbyists opposed any hike in the current 4 percent tax on their sales (and they may have implicitly or explicitly threatened to fund a campaign against the tax measure). So Schenirer apparently agreed to withdraw his proposal to hike the BOT on all sellers (including future recreational retailers and growers) and substitute a 5 percent tax on pot growers only, the proceeds of which could be spent only on youth programs.

But here's the rub: The current 4 percent BOT would apply to sales by future pot growers, and the city's general fund would collect the proceeds. But Schenirer's proposed 5 percent tax on growers would divert those funds from the general fund into youth program spending. So if voters vote down Schenirer's 5 percent growers tax, sales by growers will not escape taxation by the city. They will still be taxed under the current 4 percent BOT, but the taxes would flow into the general fund.

So Schenirer's plan really raises the effective city tax on future growers by only 1 percent, not the 5 percent that is being touted. The other 4 percent would essentially be snatched from the city's general fund, which can ill afford it.

Schenirer's original plan to impose a 10 percent tax on sales by all pot sellers (dispensaries, retailers or growers) would actually have more merit and perhaps more appeal to voters than his final plan, provided the proceeds were paid into the city's general fund to help close upcoming budget deficits. Pro-tax liberals would likely support it. Conservatives, while they oppose new taxes, also largely oppose pot legalization. They may perceive a higher tax on pot as the next best thing to keeping pot illegal. City unions, which will largely oppose Schenirer's plan, would likely support such a higher general-fund pot tax since it would augment the general fund, out of which they are all paid. City staff would support it since it avoids ballot-box budgeting and would help pay for their salaries and benefits.

So-called sin taxes are always popular with the public, as nonsinners seem to have little reluctance to load taxes on the backs of sinners. Could the local pot industry mount a successful opposition to such a coalition? Possible, but not likely.

### **Showdown on Utility Rate Hikes**

The Utilities Rate Advisory Commission, after hearing from a large number of worried residents opposed to the department of utilities' proposal to hike city water rates by 10 percent per year and sewer rates by 9 percent per year for each of the next four years, voted 4-1-1 to support the department's rate-hikes proposal. It will now be taken up by the city council at its meeting on Tuesday, March 15, at 6 p.m.

Several representatives of Eye on Sacramento (a local watchdog group that I head) urged the commission to reject the proposals, or to at least moderate the water rate hikes by deferring completion of the city's water meter installation program until the state-imposed deadline of 2025, instead of accelerating the completion date by five years, as the DOU has proposed.

EOS's main opposition points: Sacramento has met all internal and external water conservation targets with just half of all city homes metered, proving that accelerated meter installations are not needed for Sacramento to meet its water conservation targets; the real median household income of Sacramento families dropped 12 percent between 2007 and 2014, while numerous major hikes in taxes, fees and rates imposed in recent years, coupled with those on the horizon, threaten the viability of working families, people on fixed incomes and small businesses in Sacramento; and the cumulative, documented major failures of DOU management over the past two years provides ratepayers with no confidence that current DOU management has the capacity to manage large-scale infrastructure projects competently and in a cost-effective manner.

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