An act to amend Sections 11362.775, 11362.81, and 11362.83 of, and to add Article 2.8 (commencing with Section 11362.84) to Chapter 6 of Division 10 of the Health and Safety Code, and to add Chapter 4 (commencing with Section 7294) to Part 1.7 of Division 2 of the Revenue and Taxation Code, relating to controlled substances, and making an appropriation therefor.

LEGISLATIVE COUNSEL’S DIGEST

AB 2312, as amended, Ammiano. Controlled substances.

(1) Existing law provides that qualified patients, persons with valid identification cards, and the designated primary caregivers of qualified patients and persons with identification cards who associate within the State of California in order to cultivate marijuana for medical purposes, collectively or cooperatively, shall not, solely on that basis, be subject to state criminal sanctions for the possession, sale, transport, or other proscribed acts relating to marijuana.

This bill instead authorizes qualified patients, persons with valid identification cards, and the designated primary caregivers of qualified patients and persons with identification cards, to associate within the State of California as collectives, cooperatives, and other business
entities to cultivate, acquire, process, possess, transport, test, sell, and
distribute marijuana for medical purposes. The bill would provide that
these persons shall not be subject to arrest, prosecution, or specified
sanctions for possessing, selling, transporting, or engaging in other
proscribed acts relating to marijuana, unless they are not in compliance
with the registration requirements described in this bill.

(2) Existing law makes it a misdemeanor offense to, among other
things, fraudulently use or obtain a medical marijuana identification
card.

This bill also would make it a misdemeanor offense to knowingly
produce, issue, utilize, or sell a falsified, forged, or fraudulent
physician’s recommendation for medical marijuana. By creating a new
crime, the bill would impose a state-mandated local program.

(3) Existing law, the Compassionate Use Act of 1996, an initiative
measure, prohibits prosecution for the possession or cultivation of
marijuana of a patient or a patient’s primary caregiver who possesses
or cultivates marijuana for the personal medical purposes of the patient
upon the written or oral recommendation or approval of a physician.
Existing law, the Medical Marijuana Program Act, exempts qualified
patients who hold an identification card issued pursuant to the program,
and the caregivers of those persons, from certain state criminal sanctions
related to the possession, cultivation, transportation, processing, or use
of limited amounts of marijuana, as specified.

This bill would establish the Medical Marijuana Regulation and
Control Act for the purposes of regulating and controlling medical
marijuana activities. The bill would establish the Board of Medical
Marijuana Enforcement in the Department of Consumer Affairs, and
require the board to perform specified duties relating to the regulation
of medical marijuana facilities, as defined. The governing body of the
board would consist of 9 members, appointed by the Governor, the
Senate Committee on Rules, and the Speaker of the Assembly. The
duties of the board would include, but not be limited to, issuing or
denying registration applications, establishing fees for administering
these provisions, adopting regulations in connection with these
provisions, and issuing fines and penalties for the violation of these
provisions.

The bill would preempt local laws regarding the regulation and control
of medical marijuana and would prohibit a medical marijuana facility,
as defined, from operating without state-approved registration, except
as specified. The bill would generally require a city or county to permit
no fewer than one medical marijuana dispensary, as defined, per 50,000 residents, provided that a city or county would be permitted to opt out of this requirement, pursuant to certain procedures. The bill would exempt from the bill’s provisions individual patients and caregivers cultivating marijuana at their residences who do not sell or charge for the cultivation.

The bill would require the board to make available mandatory registration application forms no later than July 1, 2013, and to make a thorough investigation to determine whether the applicant meets specified criteria. The bill would require that all registration applications be approved unless the applicant fails to meet the criteria. The bill would require a registration application to be approved or denied no later than 180 days after the application is filed with the board, and, if the board fails to act within this time, would require that the application be deemed approved. The bill would require a person applying for the renewal of an existing registration to file no less than 60 days prior to the expiration, and would require the board to act upon a timely filed registration renewal application no later than 10 days prior to the expiration of the registration.

This bill would create the Medical Marijuana Fund and would require that all moneys collected pursuant to the act be deposited into the Medical Marijuana Fund and would, except for moneys derived from penalties, continuously appropriate moneys in the fund for the purposes of implementing, enforcing, and administering the program.

(4) Existing law authorizes the board of supervisors of a county and the governing body of a city to levy, increase, or extend a transactions and use tax at a rate of 0.25%, or a multiple thereof, at a combined rate not to exceed 2% if approved by the required vote of the board or governing body and the required vote of qualified voters.

This bill would additionally authorize the board of supervisors of a county and the governing body of a city to levy, increase, or extend a transactions and use tax on the retail sale of or storage, use, or other consumption of, medical marijuana or medical marijuana-infused products for general and specified purposes, as provided, at a combined rate not to exceed 2.5%. This bill would authorize the board of supervisors to levy, increase, or extend the tax at a rate of ____ percent, or a multiple thereof. This bill would authorize the governing body of a city to levy, increase, or extend the tax at a rate of ____ percent, or a multiple thereof 5%.
The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.


The people of the State of California do enact as follows:

SECTION 1. This act shall be known, and may be cited, as the Medical Marijuana Regulation and Control Act.

SEC. 2. (a) The Legislature finds and declares all of the following:

(1) In 1996, the people of the State of California enacted the Compassionate Use Act of 1996, codified in Section 11362.5 of the Health and Safety Code. The people of the State of California declared that their purpose in enacting the measure was, among other things, “[t]o ensure that seriously ill Californians have the right to obtain and use marijuana for medical purposes where that medical use is deemed appropriate and has been recommended by a physician who has determined that the person’s health would benefit from the use of marijuana in the treatment of cancer, anorexia, AIDS, chronic pain, spasticity, glaucoma, arthritis, migraine, or any other illness for which marijuana provides relief.”

(2) The Compassionate Use Act of 1996 called on state government to implement a plan for the safe and affordable distribution of marijuana to all patients in medical need of marijuana.

(3) In 2003, the Legislature enacted the Medical Marijuana Program Act (MMPA), codified in Article 2.5 (commencing with Section 11362.7) of Chapter 6 of Division 10 of the Health and Safety Code. Under the guidance of the MMPA, approximately 60 California cities and counties have created medical marijuana access ordinances that can act as a guide for the state. However, many other cities and counties are calling for more guidance and regulation from the state and have passed bans or moratoria on medical marijuana cultivation and distribution while awaiting such guidance.
(4) Greater certainty and uniformity are urgently needed regarding the rights and obligations of medical marijuana facilities, and for the imposition and enforcement of regulations to prevent unlawful cultivation and the diversion of marijuana to nonmedical use.

(5) Despite the passage of the Compassionate Use Act of 1996 and the MMPA, because there is no effective statewide system for regulating and controlling medical marijuana, local law enforcement officials have been confronted with uncertainty about the legality of some medical marijuana cultivation and distribution activities, and many cities and counties have passed local ordinances that in some cases ban the cultivation or distribution of medical marijuana.

(6) Marijuana has widely accepted medical applications that make it inappropriate to classify it as a Schedule I controlled substance in the State of California. Furthermore, current marijuana laws require costly, mandatory felony penalties for minor marijuana offenses, imposing excessive legal costs in minor medical marijuana cases and unduly burdening the state’s law enforcement and prison system.

(7) For the protection of all Californians, the state must act to regulate and control medical marijuana. Cities and counties should be allowed to impose reasonable local taxes and enact reasonable zoning regulations and other restrictions applicable to the cultivation and distribution of medical marijuana based on local needs.

(8) A state board shall be created to regulate and control the mandatory registration of all individuals and entities involved in the commercial cultivation, processing, manufacturing, testing, transportation, distribution, and sale of medical marijuana in this state.

(9) The provisions of this act are enacted pursuant to the powers reserved to the State of California and its people under the Tenth Amendment to the United States Constitution.

(b) It is therefore the intent of the Legislature, in enacting this act, to accomplish all of the following:

(1) To establish a statewide system for regulating and controlling medical marijuana activities by creating a state board to enact and enforce regulations governing the cultivation, processing,
manufacturing, testing, transportation, distribution, and sale of medical marijuana.

(2) To allow cities and counties to enact reasonable zoning regulations or other restrictions applicable to the cultivation, processing, manufacturing, testing, and distribution of medical marijuana based on local needs.

(3) To prohibit the issuance and use of fraudulent or forged physician’s recommendations for medical marijuana.

(4) To establish the Board of Medical Marijuana Enforcement to be located within the Department of Consumer Affairs to provide a governmental agency that will ensure the strict, honest, impartial, and uniform administration and enforcement of the medical marijuana laws throughout the state.

(5) To fulfill the promise of the Compassionate Use Act of 1996 to “implement a plan for the safe and affordable distribution of marijuana to all patients in medical need of marijuana.”

(6) To support the creation of a more appropriate schedule for marijuana that recognizes its medical use in the State of California.

(7) To establish a statewide registration process to identify for law enforcement which individuals and entities are exempt from state law criminal penalties.

(8) To reduce the cost of medical marijuana enforcement by providing law enforcement guidelines to more easily determine whether or not a person is acting in conformance with the state’s medical marijuana laws and by providing courts and prosecutors flexibility in the punishment of minor marijuana offenses.

SEC. 3. Section 11362.775 of the Health and Safety Code is amended to read:

11362.775. Qualified patients, persons with valid identification cards, and the designated primary caregivers of qualified patients and persons with identification cards, may associate within the State of California as collectives, cooperatives, and other business entities to cultivate, acquire, process, possess, transport, test, sell, and distribute marijuana for medical purposes, and shall not be subject to arrest, prosecution, or sanctions under Section 11357, 11358, 11359, 11360, 11366, 11366.5, 11379.6, or 11570 on the basis of that fact, unless those persons are not in compliance with the registration requirements of Section 11362.91. This section applies to all members of an entity formed pursuant to this section regardless of whether those members contribute to any of the...
activities of the entity. This section applies regardless of whether
the registration procedure described in Section 11362.91 is being
implemented.

SEC. 4. Section 11362.81 of the Health and Safety Code is
amended to read:

11362.81. (a) A person specified in subdivision (b) shall be
subject to the following penalties:

(1) For the first offense, imprisonment in the county jail for no
more than six months or a fine not to exceed one thousand dollars
($1,000), or both.

(2) For a second or subsequent offense, imprisonment in the
county jail for no more than one year, or a fine not to exceed one
thousand dollars ($1,000), or both.

(b) Subdivision (a) applies to any of the following:

(1) A person who fraudulently represents a medical condition
or fraudulently provides any material misinformation to a
physician, county health department or the county’s designee, or
state or local law enforcement agency or officer, for the purpose
of falsely obtaining an identification card.

(2) A person who steals or fraudulently uses any person’s
identification card in order to acquire, possess, cultivate, transport,
use, produce, or distribute marijuana.

(3) A person who counterfeits, tampers with, or fraudulently
produces an identification card.

(4) A person who breaches the confidentiality requirements of
this article to information provided to, or contained in the records
of, the department or of a county health department or the county’s
designee pertaining to an identification card program.

(5) A person who knowingly produces, issues, utilizes, or sells
a falsified, forged, or fraudulent physician’s recommendation for
medical marijuana.

(c) In addition to the penalties prescribed in subdivision (a), any
person described in subdivision (b) may be precluded from
attempting to obtain, or obtaining or using, an identification card
for a period of up to six months at the discretion of the court.

(d) In addition to the requirements of this article, the Attorney
General shall develop and adopt appropriate guidelines to ensure
the security and nondiversion of marijuana grown for medical use
by patients qualified under the Compassionate Use Act of 1996.
SEC. 5. Section 11362.83 of the Health and Safety Code is amended to read:

11362.83. Nothing in this article shall prevent a city or other local governing body from adopting and enforcing any of the following:
(a) Adopting local ordinances that regulate the location, operation, or establishment of a medical marijuana cooperative or collective, consistent with this article and Article 2.8 (commencing with Section 11362.84).
(b) The civil and criminal enforcement of local ordinances described in subdivision (a).
(c) Enacting other laws consistent with this article.

SEC. 6. Article 2.8 (commencing with Section 11362.84) is added to Chapter 6 of Division 10 of the Health and Safety Code, to read:

Article 2.8. Medical Marijuana Regulation and Control

11362.84. For purposes of this article, the following definitions apply:
(a) “Act” means the Medical Marijuana Regulation and Control Act.
(b) “Board” means the Board of Medical Marijuana Enforcement.
(c) “Executive director” means the Executive Director of the Board of Medical Marijuana Enforcement.
(d) “Financial institution” means a bank, savings and loan association, or credit union chartered under the laws of this state or the United States.
(e) “Fund” means the Medical Marijuana Fund.
(f) “Mandatory registrant” means a person required to register with the board pursuant to the provisions of this article.
(g) “Mandatory registration” means a registration issued by the board pursuant to this article.
(h) “Medical marijuana dispensary” means any facility, building, structure, or location where medical marijuana is sold to qualified patients, primary caregivers, or persons with identification cards issued pursuant to Article 2.5 (commencing with Section 11362.7).
(i) “Medical marijuana facility” means any facility, building, structure, or location where medical marijuana is grown, processed,
stored, manufactured, tested, or sold, other than a location or
building in which a patient or a patient’s primary caregiver is
growing medical marijuana for the patient’s own medical use and
not for sale.

(j) “Medical marijuana industry union” means a labor union,
which has at its core retail, agriculture, food and processing, or
textiles, whose members work in the medical marijuana industry.

(k) “Person” includes any individual, partnership, joint venture,
association, limited liability company, corporation, estate, trust,
receiver, syndicate, or any other group or combination thereof
acting as a unit.

11362.85. This article shall not apply to, and shall have no
diminishing effect on, the rights and protections currently granted
to individual patients and primary caregivers pursuant to Section
11362.5 or Article 2.5 (commencing with Section 11362.7).

11362.86. A medical marijuana facility shall operate in
accordance with this article. Individual patients and caregivers
cultivating marijuana at their private residences for the patient’s
use who do not sell or charge for the cultivation of marijuana are
not considered medical marijuana facilities, and are exempt from
mandatory registration.

11362.87. (a) It is the intent of the Legislature that each city,
county, and city and county permit the development of sufficient
numbers and types of medical marijuana facilities as are
commensurate with local needs, consistent with the provisions of
this article.
(b) Except as provided in subdivision (d), (e), or (f), the
provisions of this article shall preempt all local ordinances or
regulations relating to the regulation and control of medical
marijuana and shall apply equally to a charter city or county.
(c) Except as provided in subdivision (d), (e), or (f), a city or
county shall not prohibit the operation of persons registered
pursuant to this article or restrict their location or operation to
frustrate the provisions of this article, to render the application or
enforcement of this article impractical or impossible, or to restrict
the location of medical marijuana dispensaries so as to authorize
fewer than one medical marijuana dispensary per 50,000 residents.
(d) A city or county with a population of at least 50,000 may
prohibit the establishment of medical marijuana dispensaries within
its jurisdiction, or limit the number of allowed medical marijuana
dispensaries to a number below one per 50,000 residents, if an
ordinance or regulation authorizing that restriction has been
approved by the voters of lawfully enacted by the city, county, or
city and county in accordance with the provisions of Chapter 2
(commencing with Section 9100) or Chapter 3 (commencing with
Section 9200) of Division 9 of the Elections Code. In no event
may a city, county, or city and county enact legislation that impairs
the rights granted to qualified patients and their caregivers pursuant
to Section 11362.5 or Article 2.5 (commencing with Section
11362.7).
(e) A city or county with a population of less than 50,000
residents may prohibit the establishment of a medical marijuana
dispensary within its jurisdiction provided that the legislative body
of a city or county make a written finding to the board supported
by evidence adduced during at least one public hearing that medical
marijuana is reasonably available to its residents by other means.
(f) (1) A legislative body of a city or county with existing
medical marijuana regulations may provide to the board a list of
regulated persons that it finds to be in good standing under its local
medical marijuana regulations in force as of the effective date of
the act adding this article, which shall be accompanied by a
certified copy of any ordinance regulating the location or operation
of medical marijuana facilities in that jurisdiction. These persons
shall automatically be deemed successful mandatory registrants
for purposes of this article, and shall be exempt from renewal
procedures for three years from the effective date of the act adding
this article.
(2) Any person found to not be in good standing by the
legislative body of a city, county, or city and county pursuant to
paragraph (1) shall not automatically be deemed a successful
mandatory registrant for purposes of this article.
(g) If a city or county does not enact a medical marijuana
dispensary zoning ordinance, medical marijuana dispensaries and
facilities in that jurisdiction shall be wholly regulated by the board
pursuant to this article, and medical marijuana dispensaries and
facilities that are mandatory registrants may locate in that
jurisdiction in any location that the board finds to be appropriately
zoned, subject to the restrictions of Section 11362.768.
11362.88. There is within the Department of Consumer Affairs
a Board of Medical Marijuana Enforcement. The board shall be
administered by a governing body as prescribed by Section 11362.881 and a civil executive officer, who shall be appointed by, and serve at the pleasure of, the Director of Consumer Affairs, and who shall be known as the Executive Director of the Board of Medical Marijuana Enforcement. Funds for the establishment and support of the board shall be advanced as a loan by the Department of Consumer Affairs and shall be repaid by the initial proceeds from fees collected pursuant to paragraph (7) of subdivision (a) of Section 11362.882.

11362.881. (a) The governing body of the board shall consist of nine members appointed as follows:

1. Three members who are residents of California shall be appointed, one of whom shall be appointed by the Governor, one of whom shall be appointed by the Speaker of the Assembly, and one of whom shall be appointed by the Senate Committee on Rules.

2. Two members, who are licensed physicians and have experience with clinical applications of medical marijuana, shall be appointed by the Governor.

3. One member, who is a full-time peace officer, shall be appointed by the Governor.

4. One member, who is a medical marijuana patient advocate, shall be appointed by the Speaker of the Assembly.

5. One member, who is a qualified medical marijuana patient, shall be appointed by the Senate Committee on Rules.

6. One member, who is a representative from a medical marijuana industry union, as defined in subdivision (j) of Section 11362.84, shall be appointed by the Speaker of the Assembly.

(b) In making appointments pursuant to this article, the Governor, the Senate Committee on Rules, and the Speaker of the Assembly shall make good faith efforts to ensure that their appointments reflect the economic, social, and geographic diversity of the state.

(c) The authority responsible for appointing a member of the governing body of the board shall appoint each member within 90 days of the effective date of the act adding this article.

(d) A majority of the total appointed membership of the governing body of the board shall constitute a quorum. Any action taken by the governing body of the board under this article requires a majority vote of the members present at the meeting of the
governing body of the board, with a quorum being present, unless
otherwise specifically provided for in this article.

(e) The governing body of the board shall elect a chairperson
and vice chairperson from among its members and shall meet at
least quarterly on call of the executive director, the chairperson,
or three members of the governing body of the board.

(f) The terms of office of the members of the governing body
of the board shall be as follows:

(1) Except as provided in paragraph (2), the terms of the
members of the governing body of the board shall be three calendar
years, commencing January 1 of the year of appointment. No
member shall serve more than two consecutive full terms; provided,
however, that a term or part of a term served pursuant to
subparagraph (A) or (B) of paragraph (2) shall not be included in
this limitation.

(2) The terms of the members of the governing body of the
board shall be staggered as follows:

(A) The first members appointed on or after January 1 of the
year following the effective date of this article pursuant to
paragraph (1) of subdivision (a) shall serve from the date of
appointment to the end of that calendar year, plus one additional
year.

(B) The first members appointed on or after January 1 of the
year following the effective date of this article pursuant to
paragraphs (2) and (3) of subdivision (a) shall serve from the date
of appointment to the end of that calendar year, plus two additional
years.

(C) The first members appointed on or after January 1 of the
year following the effective date of this article pursuant to
paragraphs (4) to (6), inclusive, of subdivision (a) shall serve from
the date of appointment to the end of that calendar year, plus three
additional years.

(3) If a vacancy occurs prior to the expiration of the term for
the vacated seat, the appointing authority of that vacant seat shall
appoint a replacement member for the remainder of the unexpired
term within 30 days after the occurrence of the vacancy.

(g) Each member of the governing body of the board shall be
paid one hundred dollars ($100) per day plus travel expenses,
including expenses for lodging and meals, which are incurred in
the attendance at board meetings or in conducting the business of
the board. All per diem and expense claims are subject to approval by the executive director.

11362.882. (a) The board shall do all of the following:

1. (A) Commencing September 1, 2013, approve or deny mandatory registration applications for the cultivation, processing, manufacturing, testing, transportation, distribution, and sale of medical marijuana as provided by state law.

2. (B) Suspend, fine, restrict, or revoke registration upon a violation of this article or a rule or regulation promulgated pursuant to this article.

3. (C) Impose any penalty authorized by this article or any rule or regulation promulgated pursuant to this article.

4. (D) Take any reasonable action with respect to a mandatory registration application in accordance with procedures established pursuant to this article.

5. (2) Commencing July 1, 2013, adopt, amend, and rescind reasonable regulations, special rulings, and findings as necessary for the regulation and control of the cultivation, processing, manufacturing, testing, transportation, distribution, and sale of medical marijuana, and to govern the procedures of the board to exercise the powers and perform the duties conferred upon it by this article, in accordance with the provisions of Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code.

6. (3) (A) Hear and determine at a public hearing any appeals of a mandatory registration application denial or renewal application denial and any complaints against a registered person.

7. (B) Administer oaths and issue subpoenas to require the presence of individuals and the production of papers, books, and records necessary to the determination of any hearing. Any hearing under this section shall be conducted in accordance with Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code.

8. (4) Maintain the confidentiality of any information obtained from a registered person related to medical marijuana patients or caregivers in strict compliance with the federal Health Insurance Portability and Accountability Act (42 U.S.C. Sec. 1320d et seq.), the Confidentiality of Medical Information Act (Part 2.6 (commencing with Section 56) of Division 1 of the Civil Code), and the Insurance Information and Privacy Protection Act (Article
6.6 (commencing with Section 791) of Chapter 1 of Part 2 of Division 1 of the Insurance Code).  

(5) Develop any forms, identification cards, and applications that are necessary or convenient in the reasonable discretion of the board for the administration of this article or any of the rules or regulations promulgated pursuant to this article.  

(6) Oversee the operation of the Medical Marijuana Fund created pursuant to Section 11362.89.  

(7) Establish reasonable fees for processing all applications, registrations, notices, or reports required to be submitted to the board. The amount of fees shall reflect the direct and indirect costs of the board in the administration and enforcement of this article and shall be assessed on a sliding fee scale to reflect the projected revenue of the particular registrant. Fees assessed pursuant to this paragraph shall be deposited into the Medical Marijuana Fund.  

(8) Commencing July 1, 2013, develop zoning standards for purposes of implementing subdivision (g) of Section 11362.87.  

(b) Regulations promulgated pursuant to paragraph (2) of subdivision (a) shall be reasonable and shall include, but are not necessarily limited to, the following:  

(1) Procedures and grounds for issuing, renewing, denying, suspending, issuing fines in connection with, restricting, or revoking a mandatory registration issued pursuant to this article.  

(2) Civil penalties for violation of the provisions of this article, including fines imposed pursuant to subdivision (g) of Section 11362.91.  

(3) Prohibition of misrepresentation and unfair practices.  

(4) Best practices guiding advertisements promoting the purchase of medical marijuana.  

(5) Security requirements for premises subject to mandatory registration pursuant to this article, including lighting, physical security, alarm, and reporting requirements for changes, alterations, or modifications to the premises.  

(6) Regulations for the storage and transportation of medical marijuana.  

(7) Requirements for waste disposal and recycling.  

(8) Best practices relating to the labeling, packaging, and testing of medical marijuana.  

(9) Guidelines regarding cultivation, including use of pesticides and fungicides and the reduction of environmental impacts.
(10) Establishment of exemptions from registration or reduced fees for noncommercial collectives, not-for-profit registrants, and other qualified persons.

(11) Protocols to prevent unlawful diversion of marijuana.

(12) Establishment of a committee to advise the Legislature on the rescheduling of marijuana under federal law and under Chapter 2 (commencing with Section 11053).

(13) Any other regulation in furtherance of this article.

(c) Nothing in this article shall be construed as authorizing the board to set prices for medical marijuana.

11362.89. (a) All moneys collected pursuant to this article shall be deposited in the Medical Marijuana Fund, which is hereby created in the State Treasury.

(b) There is hereby established the Medical Marijuana Enforcement Penalty Account within the fund, to receive the penalty amounts collected pursuant to subdivision (g) of Section 11362.91 and any other penalty amounts levied pursuant to this article. Moneys in the account shall be available, upon appropriation by the Legislature, for purposes of this article.

(c) Notwithstanding Section 16305.7 of the Government Code, the fund shall also include any interest and dividends earned on money in the fund.

(d) Notwithstanding Section 13340 of the Government Code, all moneys in the fund, except for moneys in the Medical Marijuana Enforcement Penalty Account, are hereby continuously appropriated, without regard to fiscal year, to the board solely for the purpose of fully funding all costs associated with implementing, enforcing, and administering this article with respect to the purpose for which those moneys were collected. From moneys in the fund, the board shall reimburse the Department of Consumer Affairs for its administrative expenses incurred on behalf of the board.

11362.90. All applicable provisions of Division 1 (commencing with Section 100) of the Business and Professions Code shall govern and apply to the conduct of the board.

11362.901. Except as specified in Section 11362.881, the executive director shall be the appointing authority of all employees within the board. All heads of divisions and committees and other employees within the board shall be responsible to the executive director for the proper carrying out of the duties and responsibilities of their respective positions.
11362.902. The executive director may bring an action to enjoin a violation or a threatened violation of any provision of this article with the vote of a majority of the members of the governing body of the board. The action may be brought in the county in which the violation occurred or is threatened to occur. Any proceeding brought pursuant to this section shall conform to the requirements of Chapter 3 (commencing with Section 525) of Title 7 of Part 2 of the Code of Civil Procedure.

11362.91. (a) Except as otherwise provided in this article, a medical marijuana facility shall not operate until it has filed a mandatory registration application with the board and the board has approved the mandatory registration application pursuant to this article. For the purpose of regulating the cultivation, processing, manufacturing, testing, transportation, distribution, and sale of medical marijuana, the board, in its reasonable discretion, may establish various classes or types of registrations for specific medical marijuana-related activities, subject to the provisions and restrictions provided by this article. A mandatory registration application or renewal shall be approved unless the board determines that any of the following are true:

1. An applicant, or the medical marijuana facility location for which the applicant is applying for mandatory registration, fails to meet the requirements of this article or any regulation promulgated pursuant to this article.
2. An applicant, or any of its officers or directors, is under 21 years of age.
3. An applicant has knowingly answered a question or request for information falsely on the application form.
4. An applicant, or any of its officers or directors, has been convicted in the previous five years of a violent felony, as specified in subdivision (c) of Section 667.5 of the Penal Code, a serious felony, as specified in subdivision (c) of Section 1192.7 of the Penal Code, a felony offense involving fraud or deceit, or any other felony that, in the board’s estimation, would impair the applicant’s ability to appropriately operate a medical marijuana facility.
5. An applicant is a licensed physician making patient recommendations for medical marijuana.
6. An applicant, or any of its officers or directors, has been sanctioned by the board for operating an unregistered medical
marijuana facility or has had a mandatory registration revoked in
the previous three years.

(b) No later than July 1, 2013, the board shall make available
mandatory registration application forms for all persons subject
to mandatory registration. Upon receipt of an application for
mandatory registration and the applicable fee, the board shall make
a thorough investigation to determine whether the applicant and
the premises for which a mandatory registration is applied qualify
for registration, and comply with local ordinances and zoning, and
whether the provisions of this article have been complied with.
The board shall deny an application for mandatory registration if
either the applicant or the premises for which a registration is
applied do not qualify for registration under this article. A
mandatory registration application shall be approved or denied no
later than 180 days after a mandatory registration application is
filed with the board. If the board fails to act on an application
within 180 days, it shall be deemed approved.

(c) Each mandatory registration application approved by the
board pursuant to this article is separate and distinct. An applicant
may apply for a mandatory registration in more than one class of
specific medical marijuana activities.

(d) All mandatory registration applications that are approved
by the board pursuant to this article shall be valid for a period not
to exceed two years from the date of approval unless revoked or
suspended pursuant to this article or the rules or regulations
promulgated pursuant to this article.

(e) Ninety days prior to the expiration date of an existing
mandatory registration, the board shall notify the person of the
expiration date by first-class mail at the person’s address of record
with the board. A person shall apply for the renewal of an existing
mandatory registration to the board not less than 60 days prior to
the expiration. The board, in its discretion and based upon
reasonable grounds, may waive the 60-day time requirement set
forth in this subdivision. The board shall act upon a timely filed
registration renewal application no later than 10 days prior to the
expiration of the registration.

(f) A medical marijuana facility operating in conformance with
local zoning requirements as of the effective date of this article
may continue its operations until such time as its application for
mandatory registration has been approved or denied.
(g) Operating a medical marijuana facility without an approved mandatory registration may result in fines of up to twenty-five thousand dollars ($25,000), and the board may order the destruction of any marijuana being cultivated or possessed in violation of this article. Any fines collected pursuant to this subdivision shall be deposited into the Medical Marijuana Enforcement Penalty Account established pursuant to subdivision (b) of Section 11362.89.

(h) If, at any time after July 1, 2013, the board has not formed, is not accepting applications for mandatory registration, or is not granting mandatory registrations in response to valid applications, then a medical marijuana facility or medical marijuana dispensary that is operating in compliance with applicable city or county ordinances may continue to operate without a mandatory registration.

11362.92. (a) A person whose mandatory registration application has been approved by the board, and its agents, officers, directors, and employees acting on its behalf, shall not be subject to arrest, prosecution, or other criminal, civil, or administrative sanctions under state or local law for actions approved by the board in accordance with its registration application, including, as applicable, the cultivation, processing, manufacturing, testing, transportation, distribution, sale, or possession, of medical marijuana.

(b) Nothing in this article shall prevent a city, county, or city and county from enforcing a zoning ordinance or law of general application, except as specified in this article.

(c) No funds shall be spent by state or local officials to assist federal authorities in enforcing marijuana prohibitions with regard to activities carried out by persons in compliance with the provisions of this article. Nothing in this article shall be construed to limit a law enforcement agency’s ability to investigate unlawful activity in relation to a mandatory registrant.

11362.93. A financial institution shall not be penalized in any manner under state law for either of the following:

(a) Providing lending services to persons whose mandatory registration application has been approved by the board pursuant to this article or securing any such loans to those persons with assets of those persons.
(b) Owning or possessing medical marijuana or warehouse receipts as security for an obligation or as a result of enforcement of a security interest, after permission has been given by the board, or selling the medical marijuana or warehouse receipts to a registrant authorized to sell for resale that medical marijuana or those warehouse receipts.

SEC. 7. Chapter 4 (commencing with Section 7294) is added to Part 1.7 of Division 2 of the Revenue and Taxation Code, to read:

CHAPTER 4. LOCAL MEDICAL MARIJUANA TAXES

Article 1. Counties Medical Marijuana Tax

7294. (a) Notwithstanding any other law, the board of supervisors of any county may levy, increase, or extend a transactions and use tax on the sale of for tangible personal property that is medical marijuana or medical marijuana-infused products for general purposes at a rate of ____ percent, or a multiple thereof, if the ordinance proposing that tax is approved by a two-thirds vote of all members of the board of supervisors and the tax is approved by a majority vote of the qualified voters of the county voting in an election on the issue. The board of supervisors may levy, increase, or extend more than one transactions and use tax under this section, if the adoption of each tax is in the manner prescribed in this section. The 

(b) (1) The transactions and use tax shall conform to Part 1.6 (commencing with Section 7251).

(2) Notwithstanding Section 7251.1, the tax rate authorized by this section shall not be considered for purposes of the combined rate established by that section.

7294.5. (a) Notwithstanding any other law, the board of supervisors of any county may levy, increase, or extend a transactions and use tax on for tangible personal property that is medical marijuana or medical marijuana-infused products for specific purposes. The tax may be levied, increased, or extended at a rate of ____ percent, or a multiple thereof, for the purpose for which it is established, if all of the following requirements are met:

(1) The ordinance proposing that tax is approved by a two-thirds vote of all members of the board of supervisors and is subsequently
approved by a two-thirds vote of the qualified voters of the county
voting in an election on the issue.
(2) (A) The transactions and use tax conforms to the
Transactions and Use Tax Law Part 1.6 (commencing with Section
7251).
(B) Notwithstanding Section 7251.1, the tax rate authorized by
this section shall not be considered for purposes of the combined
rate established by that section.
(3) The ordinance includes an expenditure plan describing the
specific projects for which the revenues from the tax may be
expended.
(b) A county shall be deemed to be an authority for purposes
of Chapter 1 (commencing with Section 55800) of Part 3 of
Division 2 of Title 5 of the Government Code.
7294.6. Notwithstanding any other law, the combined rate of
all taxes imposed in any county pursuant to this article and pursuant
to Article 2 (commencing with Section 7295) shall not exceed the
rate of 2.5 percent.

Article 2. Cities Medical Marijuana Tax

7295. (a) Notwithstanding any other law, the governing body
of any city may levy, increase, or extend a transactions and use
tax on the sale of tangible personal property that is medical
marijuana or medical marijuana-infused products for general
purposes at a rate of ____ percent, or a multiple thereof, if the
ordinance proposing that tax is approved by a two-thirds vote of
all members of that governing body and the tax is approved by a
majority vote of the qualified voters of the city voting in an election
on the issue. The governing body may levy, increase, or extend
more than one transactions and use tax under this section, if the
adoption of each tax is in the manner prescribed in this section.
The
(b) (1) The transactions and use tax shall conform to Part 1.6
(commencing with Section 7251).
(2) Notwithstanding Section 7251.1, the tax rate authorized by
this section shall not be considered for purposes of the combined
rate established by that section.
7295.5. Notwithstanding any other law, the governing body
of any city may levy, increase, or extend a transactions and use
tax on the sale of for tangible personal property that is medical marijuana or medical marijuana-infused products for specific purposes. The tax may be levied, increased, or extended at a rate of ____ percent, or a multiple thereof, for the purpose for which it is established, if all of the following requirements are met:

(a) The ordinance proposing that tax is approved by a two-thirds vote of all members of the governing body and is subsequently approved by a two-thirds vote of the qualified voters of the city voting in an election on the issue.

(b) (1) The transactions and use tax conforms to the Transactions and Use Tax Law Part 1.6 (commencing with Section 7251).

(2) Notwithstanding Section 7251.1, the tax rate authorized by this section shall not be considered for purposes of the combined rate established by that section.

(c) The ordinance includes an expenditure plan describing the specific projects for which the revenues from the tax may be expended.

7295.6. (a) The authority of a city to impose transactions and use taxes under Sections 7295 and 7295.5 shall not exceed the rate of 2 percent.

(b) An ordinance proposing a tax shall contain a provision that any person subject to a transactions and use tax under a county ordinance shall be entitled to credit against the payment of taxes due under that ordinance in the amount of transactions and use tax due to any city in the county.

SEC. 8. The provisions of this article are severable. If any provision of this article or its application is held invalid, that invalidity shall not affect other provisions or applications that can be given effect without the invalid provision or application.

SEC. 9. No reimbursement is required by this act pursuant to Section 6 of Article XIIIB of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within
the meaning of Section 6 of Article XIII B of the California Constitution.