



# COUNTY OF SAN DIEGO

## AGENDA ITEM

### BOARD OF SUPERVISORS

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First District

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Second District

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Third District

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Fourth District

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**DATE:** May 24, 2022 and June 14, 2022

**23**

**TO:** Board of Supervisors

### SUBJECT

**AN ORDINANCE AMENDING ARTICLE XV-B OF THE SAN DIEGO COUNTY ADMINISTRATIVE CODE RELATING TO HEALTH AND HUMAN SERVICES CHARGES AND FEES (DISTRICTS: ALL)**

### OVERVIEW

Today's action requests that the San Diego County Board of Supervisors (Board) approve amendments to Article XV-B of the San Diego County Administrative Code related to fees charged for services by the County of San Diego (County) Health and Human Services Agency (HHSA) Public Health Services and Behavioral Health Services. The Board last approved revisions to HHSA's fees and rates on May 4, 2021 (18).

The proposed Ordinance represents a comprehensive package that seeks to support the cost of providing HHSA services, while maintaining fees that are fair and equitable for customers and the public. In accordance with Board Policy B-29 (Fees, Grants, and Revenue Contracts—Department Responsibility for Cost Recovery), HHSA recently conducted a review of their fees and rates, in order to ensure costs are fully recovered for services provided to agencies or individuals. A total of 83 HHSA fees and their associated costs were reviewed, resulting in proposed additions, adjustments, deletions, and determinations to maintain existing fees. The Auditor and Controller has reviewed and approved the supporting documentation and the methodology for establishing the fees in this proposal for Fiscal Year 2022-23.

Today's request requires two steps: on May 24, 2022, it is requested that the Board consider an Ordinance amending sections of the San Diego County Administrative Code related to HHSA fees. If the Board takes the action as recommended, then on June 14, 2022, the proposed Ordinance will be brought back to the Board for consideration and adoption.

This item supports the County's vision of a just, sustainable, and resilient future for all, specifically those communities and populations in San Diego County that have been historically left behind, as well as our ongoing commitment to the regional *Live Well San Diego* vision of healthy, safe and thriving communities. This will be accomplished by ensuring that the County has optimized its health and social services delivery system to ensure efficiency, integration and innovation while maintaining fiscal stability in support of a healthy, safe and thriving region.

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**RECOMMENDATION(S)**

**CHIEF ADMINISTRATIVE OFFICER**

On May 24, 2022:

Approve the introduction of the Ordinance (first reading), read title, and waive further reading of the Ordinance:

AN ORDINANCE AMENDING ARTICLE XV-B OF THE SAN DIEGO COUNTY ADMINISTRATIVE CODE RELATING TO HEALTH AND HUMAN SERVICES CHARGES AND FEES

If on May 24, 2022, the San Diego County Board of Supervisors takes action as recommended, then on June 14, 2022

1. Consider and adopt (second reading):

AN ORDINANCE AMENDING ARTICLE XV-B OF THE SAN DIEGO COUNTY ADMINISTRATIVE CODE RELATING TO HEALTH AND HUMAN SERVICES CHARGES AND FEES

2. Waive Board Policy B-29, Fees, Grant, Revenue Contracts-Department Responsibility for Cost Recovery, which requires full-cost recovery of fees.

**EQUITY IMPACT STATEMENT**

As part of standard practice, the County of San Diego (County), Health and Human Services Agency (HHSA) performs an annual review of fees and rates charged in order to ensure that charges do not exceed the County's actual cost for the service provided. Additionally, HHSA reviews fees annually to ensure that costs are fully recovered for services provided to agencies or individuals, in alignment with current San Diego County Board of Supervisors (Board) standards and that they are updated to reflect applicable laws and regulations.

To develop the cost recovery proposal, HHSA performed an analysis of all services provided to customers to examine the tasks and functions performed, including the direct and indirect costs of performing those tasks in relation to the specific services. Criteria were established to determine a fair and equitable fee for direct services provided.

The proposed Ordinance represents a comprehensive package that seeks to support the cost of providing HHSA services, while maintaining fees that are fair and equitable for customers and the public. Updates include public health laboratory fees that are either tied to environmental testing, such as testing of drinking water or foodborne illness investigations, or clinical fees such as tests for communicable disease outbreaks, among others. Additionally, a new fee is being added to help reduce tobacco use initiation, foster health equity, and reduce access to nicotine and tobacco through improved compliance with current laws and regulations. Lastly, the proposed Ordinance

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includes a revision to a fee for the Edgemoor Skilled Nursing Facility to align with updated full cost recovery information.

Today's action would update fees for services provided by the County that help to promote health and safety and have an impact on the lives of Black, Indigenous, People of Color, women, people with disabilities, immigrants, youth, the LGBTQ+ community, and economically disadvantaged.

**FISCAL IMPACT**

Funds for this request are partially included in the Fiscal Year 2021-23 Operational Plan in the Health and Human Services Agency (HHSA). If approved, this request will have no impact in Fiscal Year 2021-22 and will result in an estimated increase in revenue of \$299,552 in Fiscal Year 2022-23. A waiver of B-29 is requested for the new Tobacco Retail License fee because not all costs will be recovered as a result of the proposed three-year phased-in approach. The B-29 cost for Fiscal Year 2022-23 is estimated at \$240,900 and will be funded with Realignment. There is no change in net General Fund cost and no additional staff years.

**BUSINESS IMPACT STATEMENT**

N/A

**ADVISORY BOARD STATEMENT**

This item was presented to the Health Services Advisory Board as an informational item on April 5, 2022 and May 3, 2022.

**BACKGROUND**

The County of San Diego (County) Health and Human Services Agency (HHSA) remains committed to maintaining the highest quality work product and customer service, while maintaining, and whenever possible, reducing costs. Efforts to streamline and improve processes, especially using new technology as it becomes available, are continuously evaluated and operationalized when possible. The continued increases in the cost of doing business necessitate the evaluation of fees to align with current costs.

HHSA has reviewed 83 fees. Of those, 44 fees were either already under San Diego County Administrative Code Article XV-B Section 239, which sets the fee as the lesser of the published Medi-Cal rate or calculated County costs, previously had a less than full-cost recovery fee rate approved by the San Diego County Board of Supervisors (Board) or had no proposed change to the fee at this time. For the remaining 39 fees and rates, HHSA is proposing updated fees effective Fiscal Year (FY) 2022-23 and ordinance language change per Attachment A and amendment of various sections within the San Diego County Administrative Code Article XV-B to support proposed fee adjustments and additions (see Attachment B and C). The overall analysis of the 39 fees results in the following recommended actions listed (see Attachment D for additional details) in the table below:

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| Action            | Number of Fees | Division Impact  |
|-------------------|----------------|--|
| Increases         | 18             | <ul style="list-style-type: none"><li>Public Health Services (17)</li><li>Behavioral Health Services (1)</li></ul> |
| Decreases         | 8              | <ul style="list-style-type: none"><li>Public Health Services (8)</li></ul>   |
| New               | 7              | <ul style="list-style-type: none"><li>Public Health Services (7)</li></ul>   |
| Deletions         | 6              | <ul style="list-style-type: none"><li>Public Health Services (6)</li></ul>   |
| <b>Total Fees</b> | <b>39</b>      |  |

Board Policy B-29 (Fees, Grants, and Revenue Contracts—Department Responsibility for Cost Recovery) requires Departments to ensure costs are fully recovered for services provided to agencies or individuals. Based on cost increases, a cost recovery proposal is being presented that includes a fee adjustment to ensure full cost recovery for services when possible.

To develop the cost recovery proposal, HHSA performed an analysis of all services provided to customers to examine the tasks and functions performed, including the direct and indirect costs of performing those tasks in relation to the specific services. The analysis focused on services that directly benefit an individual, group, or the general public. Criteria were established to determine a fair and equitable fee for direct services provided.

The Auditor and Controller has reviewed and approved the supporting documentation and the methodology for establishing the fees in this proposal for FY 2022-23. The following provides an overview of the fee adjustments by division.

### **Proposed Fee Package**

#### *Public Health Services*

The proposed Ordinance supports the cost recovery related to the Public Health Laboratory and Tobacco Retail Licensing Program. A total of 38 Public Health Services fees were reviewed resulting in the following recommended actions (see Attachment A for details):

| Action            | Number of Fees | Description  |
|-------------------|----------------|--|
| Increases         | 17             | <ul style="list-style-type: none"><li>Public Health Laboratory fees (17)</li></ul>   |
| Decreases         | 8              | <ul style="list-style-type: none"><li>Public Health Laboratory fees (8)</li></ul>  |
| New               | 7              | <ul style="list-style-type: none"><li>Public Health Laboratory fees (6)</li><li>Tobacco Retail Licensing Program (1)</li></ul> |
| Deletions         | 6              | <ul style="list-style-type: none"><li>Public Health Laboratory fees (6)</li></ul>  |
| <b>Total Fees</b> | <b>38</b>      |  |

#### *Public Health Laboratory Fees*

A total of thirty-one existing testing fees requires updating for Public Health Laboratory, which include seventeen proposed increases, eight proposed decreases to reflect updated cost recovery

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information, and six proposed fee deletions. For the six deleted fees, three fees are more appropriately performed by the State laboratory or Centers for Disease Control and three fees are being discontinued as the tests are no longer necessary.

In addition, a total of six new Public Health Laboratory fees are proposed. Of the six, two are related to water quality testing and four related to clinical fees. All six will be added under San Diego County Administrative Code Article XV-B Section 244. The fees added include tests currently being performed by the Public Health Laboratory, which will provide future opportunity to recover costs when possible. The Public Health Laboratory fees are primarily established for those circumstances in which costs are claimable to federal, State, and other jurisdictions.

*Tobacco Retail Licensing Program*

Tobacco retail licensing is an essential tool to reduce tobacco use initiation, foster health equity, and reduce access to nicotine and tobacco, through improved compliance with minimum legal sales age (MLSA) laws and other important tobacco sales regulations. It is a vital regulatory tool that enables states and localities to monitor tobacco sales, fund compliance efforts, and create effective penalty and suspension structures for violations. The goal of the Tobacco Retail Licensing Program is to achieve at least 80% retailer compliance with the Tobacco Retail Licensing Ordinance (Ordinance Number 10699). Based on educational outreach observations and preliminary decoy operations results (August 2021-March 2022), retailer compliance is low. These observations reinforce the need for adequate retailer monitoring and enforcement to reach the 80% compliance goal.

A new Section 256 will be added to San Diego County Administrative Code Article XV-B to incorporate one new fee for the Tobacco Retail License (TRL) program. Retail establishments that sell tobacco products will be required to pay the TRL fee, which will fund costs on strengthening enforcement of MLSA laws and to facilitate compliance monitoring of retailers. HHSA proposes a three-year phase-in approach for the TRL fee beginning FY 2022-23 through FY 2024-25, to mitigate the impact of the new fee to the retailers (see Attachment E for details) by staggering full cost recovery within a three-year period. Stakeholder outreach was conducted over the period of October 2020 through May 2022 with businesses impacted by the Tobacco Retail Licensing Ordinance and public health organizations to share information about the Ordinance, program model, and fee requirement. General outreach prior to 2022 included conducting two community forums, two informational webinars, sending e-mails and direct mail notices to over 275 retailers, and conducting at least one educational site visit with each retailer regarding the program. Additionally, during April and May of 2022, four community forums were scheduled, emails were sent, and direct mailing was distributed about the proposed fee and how to submit comments to the Board. For those retailers with incomplete email or address information, phone calls were conducted specifically about the proposed fee and how to provide comment. Additionally, resources and materials were posted to the County webpage. Following Board approval of the TRL fee, retailers will be further engaged via email updates, quarterly webinars, listening sessions, and outreach through various channels. Direct technical assistance on how to pay the fee will also be offered.

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The key activities of the Tobacco Retail Licensing Program are: to conduct routine compliance checks to all retailers eligible for a TRL; to ensure adherence and respond to public complaints related to improper tobacco sales; issue warnings to retailers for non-compliance and retain licenses when revoked due to offenses; and provide education to retailers and local officials on the requirements of the Ordinance and the necessary steps to comply. A waiver of Board Policy B-29 is requested because the funding does not offset all costs. These costs which will not be recovered are estimated at \$240,900 for FY 2022-23. The funding source is Health Realignment. The public benefit for providing these services far outweigh the B-29 unrecoverable costs. Addressing youth and young adult access to tobacco products will promote health and reduce morbidity and mortality from smoking-related illnesses.

*Behavioral Health Services Fees*

HHSA's Behavioral Health Services (BHS) provides a continuum of mental health, alcohol and other drug services to San Diego County residents of all ages. Services are provided by County and contracted staff and community partners. Services are coordinated by systems of care such as Adult & Older Adult and Children, Youth & Families. In addition, BHS operates two inpatient health services facilities – the San Diego County Psychiatric Hospital and Edgemoor, a Distinct Part Skilled Nursing Facility.

Most BHS fees are aligned with Medi-Cal rates under San Diego County Administrative Code Article XV-B Section 239. There is a private pay fee for Edgemoor in which an increase is proposed in order to align with updated full cost recovery information (see Attachment A for details). Also, clarifying language was added in Section 240 to identify that substance use disorder cases, in addition to mental health cases, as a service where ability to pay is to be determined.

| Action            | Number of Fees | Description                    |
|-------------------|----------------|--------------------------------|
| Increase          | 1              | • Edgemoor private pay fee (1) |
| <b>Total Fees</b> | <b>1</b>       |                                |

This item supports the County's vision of a just, sustainable, and resilient future for all, specifically those communities and populations in San Diego County that have been historically left behind, as well as our ongoing commitment to the regional *Live Well San Diego* vision of healthy, safe and thriving communities. This will be accomplished by ensuring that the County has optimized its health and social services delivery system to ensure efficiency, integration and innovation while maintaining fiscal stability in support of a healthy, safe and thriving region.

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**LINKAGE TO THE COUNTY OF SAN DIEGO STRATEGIC PLAN**

Today's proposed actions support the Sustainability (Economy), Equity (Health), and Empower (Transparency and Accountability) Strategic Initiatives of the County of San Diego's (County) 2022-2027 Strategic Plan. Periodically reviewing Health and Human Services Agency services and related fees ensures that the County has optimized its health and social services delivery system to ensure efficiency, integration and innovation while maintaining fiscal stability.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'H. Robbins-Meyer', with a stylized flourish at the end.

HELEN N. ROBBINS-MEYER  
Chief Administrative Officer

**ATTACHMENT(S)**

Attachment A - Summary Comparison of Current and Proposed Fees

Attachment B - AN ORDINANCE AMENDING ARTICLE XV-B OF THE SAN DIEGO COUNTY ADMINISTRATIVE CODE RELATING TO HEALTH AND HUMAN SERVICES CHARGES AND FEES (Clean Copy)

Attachment C - AN ORDINANCE AMENDING ARTICLE XV-B OF THE SAN DIEGO COUNTY ADMINISTRATIVE CODE RELATING TO HEALTH AND HUMAN SERVICES CHARGES AND FEES (Informational Copy)

Attachment D - Summary of Cost Recovery Proposal Actions and Alignment of Fees to Section 239

Attachment E - Three Year Phase-in Plan for Public Health Services - Tobacco Retail Licensing Program