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To: [Young, Victor \(BOS\)](#); [SherrillStaff](#); [MandelmanStaff \(BOS\)](#)
Cc: [John Maa <maa_john@yahoo.com>](mailto:maa_john@yahoo.com)
Subject: Support for John Ma – Seat 3 Appointment - Soda Tax Advisory Committee
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Dear Supervisors Walton, Sherrill, and Mandelman

I am writing to strongly recommend John Ma for appointment to Seat 3, Soda Tax Advisory Committee

John has been a consistent and credible advocate for the soda tax. His depth of knowledge on both the policy and its history is because of years of engagement, coalition work, and real accountability to the communities most impacted.

As a former co-chair, I had the opportunity to work closely with John on the soda tax advisory committee. His insights were helpful AND essential. He understands how policy translates into practice, and how intention must be matched with execution.

Please support his selection for Seat 3.

Thank you for your consideration and leadership.

Sincerely,

Jonathan Butler

VIEWPOINT

The Changing Landscape of Sugar-Sweetened Beverage Taxes— Small Cities Have a Big Impact

John Maa, MD; Sabrina Adler, JD; Sarah de Guia, JD; Laura Schmidt, PhD

The November 2024 election brought 2 big wins for the movement to tax sugar-sweetened beverages (SSBs; eg, soda, sports drinks) in the California cities of Berkeley and Santa Cruz. By serving as testing grounds for public health innovations, SSB taxes in small cities can have major significance for policy change in larger cities and at higher levels of government. Berkeley passed the US' first SSB tax in 2014, and SSB taxation has rapidly diffused internationally. Today, more than 130 countries and territories have SSB taxes,¹ covering half the world's population.

In Berkeley, more than 80% of voters approved a November 2024 ballot measure that made the 2014 SSB tax permanent. In Santa Cruz, voters passed a brand-new SSB tax measure by a 52% to 48% margin. This victory came after a David vs Goliath battle between public health advocates and the American Beverage Association (ABA), the trade organization for Coca-Cola, PepsiCo, and other SSB producers. Deploying outside communications firms and a large, paid staff, the ABA outspent SSB tax advocates 34 to 1, flooding the airwaves with attack ads and filling mailboxes with campaign brochures. Despite all this, Santa Cruz voters passed a 2 cents per ounce tax on distributors (raising the price of a can of soda by nearly 25 cents) with the potential to generate \$1.3 million in annual revenue for community health investments.

Voters in Berkeley and Santa Cruz were moved by the accumulating evidence that soda taxes work. SSB consumption increases the risk for obesity, cardiometabolic disease, and premature death, placing a significant cost burden on medical professionals, third-party payers, and health systems. Robust research finds that SSB taxes reduce sales, adult obesity, childhood body mass index (BMI), and gestational diabetes, while shifting public norms toward less favorable views on SSBs.²⁻⁴ Taxes can offset the economic burden to the health care delivery system by raising funds for chronic disease prevention, which alleviates socially caused diseases that are difficult and costly to treat. In Berkeley, lawmakers wisely invested tax proceeds in school-based nutrition, tap water access and promotion, and environmental health initiatives.⁵ Having witnessed the benefits of SSB taxes firsthand, Berkeley voters approved a permanent tax to sustain these initiatives.

The Santa Cruz SSB tax could have an outsized impact by changing the legal landscape and by igniting action across California and other states. The ABA invested unprecedented resources to fight this small city's tax, suggesting the measures are impactful, because it represents the first direct attack on a state-level law that prohibits California cities from passing new SSB taxes until 2031.⁶ In 2018, the California legislature enacted a preemption law under the threat of an ABA-sponsored state ballot initiative that, if passed, would have drastically curtailed localities' ability to raise critical revenue for public services. The 2018 law preempts all new local grocery

taxes, rather than SSB taxes specifically—a strategy designed to obscure the policy's true purpose, which was to halt the SSB tax movement's momentum.⁶ Sales taxes on groceries are, in fact, already prohibited in California and no city has ever proposed a local grocery tax of any kind.

Preemption occurs when a higher level of government (eg, a state) limits or eliminates the authority of a lower level of government (eg, a city) to pass its own laws. In many states, such as California, municipalities have home rule authority that provides them wide latitude to govern their own affairs; in other states (called Dillon's Rule states), municipalities can only act with specific grants of authority from the state. Particularly in home rule states, preemption is increasingly being used by corporate lobbies and special interests to prevent local governments from passing laws that threaten their commercial interests. Preemption allows trade organizations, like the ABA, to concentrate lobbying efforts at higher levels of government, thus reducing the costs of fighting numerous local battles. Public health preemption laws were honed by the tobacco industry in the 1980s to thwart local laws that threatened the industry's commercial interests, such as those limiting tobacco advertising and smoking in public places.⁷ Once in place, tobacco preemption laws have been obstructive, on average taking 30 years to repeal. Three other states have preempted SSB tax laws: Michigan, Arizona, and Washington.⁶

The Santa Cruz SSB tax comes on the heels of several years of strategic litigation that has sought to clear the way for local SSB taxes in California. In 2020, Santa Cruz City Council member Martine Watkins and the community-based organization Cultiva La Salud were supported by the American Heart Association and ChangeLab Solutions to mount a court challenge to the constitutionality of a portion of California's SSB tax preemption law.⁸ This led the courts to strike down the 2018 preemption law's penalty provision, which withheld sales tax revenues from cities that passed an SSB tax. This court ruling means that California charter cities (including Santa Cruz and more than 100 others) can proceed with a tax without fear of losing critical revenue. However, the courts have not weighed in on the constitutionality of the underlying preemption law itself.

All signs point to a courtroom showdown between the ABA and the City of Santa Cruz over its new tax. The Santa Cruz SSB tax will go into effect on May 1, 2025, and the city is currently gearing up for implementation, appointing a 12-member, citizen-led council to allocate tax proceeds for community health promotion. The ABA has repeatedly threatened a legal challenge to overturn the Santa Cruz tax and will likely file suit around the time of implementation. The ABA will argue that the tax is preempted and that Santa Cruz therefore lacks the authority to enact it. Santa Cruz will argue that the entire preemption law is unconstitutional as applied to charter cities,

which have a broad, constitutionally protected authority to govern their own affairs.

The upcoming court battle between the ABA and the City of Santa Cruz will be about affirming the democratic right to self-governance for California's charter cities, and a community's right to protect its own health as it sees fit. Under California law, charter cities have a long-recognized authority to enact taxes in the absence of statewide concerns that require removing that local authority. The ABA has tried to frame the preemption law as preventing grocery taxes that will adversely impact the affordability of food. However, because Santa Cruz's tax is confined to SSBs, any litigation will relate only to an SSB tax. As noted, SSB taxes have a strong track record of effectiveness for promoting population health, along with relatively benign economic impacts, suggesting that prohibiting them is far from a matter of statewide concern.

Going forward, physicians and medical societies will be key stakeholders in the SSB tax movement within California and beyond. In January 2025, California Governor Gavin Newsom signed an executive order calling for regulations on ultra-processed foods,

including sugary drinks.⁹ This is likely to stimulate legislative efforts to pass a statewide SSB tax and/or repeal of statewide preemption, which would save the City of Santa Cruz a costly court battle. Additionally, following Santa Cruz's success, other US state legislatures (eg, in Maryland and Connecticut) have proposed statewide SSB taxes, adding momentum. As trusted advisors, local medical societies can be instrumental in supporting SSB taxation and solidify their role in pressing for public health. The Bay Area SSB tax movement started in 2009, with a resolution by the San Francisco Marin Medical Society that was later adopted by the California Medical Association, and ultimately as American Medical Association Policy H-150.933 in 2012.¹⁰ The twin victories in Santa Cruz and Berkeley came despite being heavily outspent, and reignited a decades-long movement that was stalled by the ABA's use of preemption. SSB tax advocates nationally (especially in states without preemption) should study the secrets to success and join these courageous actions by small cities to seek big changes in laws to protect population health and reduce the epidemic of obesity and cardiometabolic disease.

ARTICLE INFORMATION

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Disclaimer: The contents of this article are solely the responsibility of the authors and do not necessarily represent the official views of the National Institutes of Health.

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