



## Legislation Text

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**File #:** 18-1844, **Version:** 1

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Chief Administrative Office recommending the Board:

- 1) Receive and file a presentation outlining next steps and an estimated timeline for the development of the County's Commercial Cannabis Program, pursuant to voter approved Measures (pending certification), and;
- 2) Adopt and authorize the Chair to sign Resolution **243-2018**, amending the Authorized Personnel Allocation Resolution 132-2018, thereby adding one Principal Management Analyst allocation to the Chief Administrative Office to allow staff to adequate time toward the development of the Commercial Cannabis Program, while continuing to address other County priorities as well as manage the budget and operational responsibilities within the CAO's office. (Est. Time: 30 min.)

**FUNDING:** General Fund initially with cost recovery through Commercial Cannabis Program Fees.

### **DISCUSSION / BACKGROUND**

On July 17, 2018, the El Dorado County Board of Supervisors placed five ballot measures on the ballot for the November 2018 election, which would enable voters to decide whether to allow different aspects of commercial cannabis and its taxation. The ballot measures named Measure N (taxation, permitting and enforcement of commercial cannabis), Measure P (commercial outdoor and mixed-light cultivation of cannabis for medicinal use), Measure Q (commercial outdoor and mixed-light cultivation of cannabis for recreational adult use), Measure R (retail sale, commercial distribution, and commercial indoor cultivation of cannabis for medicinal use), and Measure S (retail sale, commercial distribution, and commercial indoor cultivation of cannabis for recreational adult use) were passed by the voters and it is anticipated that the Board of Supervisors will declare the results of the election on December 4, 2018.

As stated in a presentation to the Board of Supervisors on July 17, 2018, if any of the ballot measures passed, the County would need time and resources to develop a Commercial Cannabis Program, including all application materials, procedures, tax rates, fee rates, etc. Measure N gives the County six months to develop the necessary program. Applications must be available at the end of that six months unless the Board of Supervisors grants an extension of time to have permits available, or any other aspect of implementation based on a finding of unforeseen circumstances, changes in state or federal law, lack of sufficient funding, or other reason necessitating an extension.

It is recommended that a current Deputy Chief Administrative Officer be dedicated to implementing the new program. Including the implementation of the new Commercial Cannabis Program, the Deputy Chief Administrative Officer position will be working with the Community Development Services departments to coordinate operations and oversee other related County-wide special projects including the Code Enforcement Ad Hoc Committee efforts. The Deputy CAO would also supervise cemetery, airport, and parks personnel and operations.

To allow the Chief Administrative Office to take on this additional workload, it is recommended that a Principal Management Analyst position be added to the Chief Administrative Office. . The Principal

Management Analyst would assume responsibilities that the Deputy Chief Administrative Officer position will not be able to cover, including creating and analyzing agenda items, creating and reviewing budget material including preparation of budget documents, reviewing department personnel requests completing analyst projects with departments, and other work as directed by the Board. Because the Deputy Chief Administrative Officer would be retaining supervisory duties, a Principal Analyst rather than an additional Deputy Chief Administrative Officer would be appropriate. The supplemental Principal Management Analyst position will also be able to assist with those non-economic development responsibilities (i.e., department analyst, budget, Legistar review), which were until recently completed by the economic development position in the Chief Administrative Office. Due to other promotions and appointments within the County, the economic development position will now focus entirely on economic development priorities.

#### History on the Ad Hoc Cannabis Advisory Committee

Since March 15, 2016, El Dorado County held approximately 30 public meetings on the subject of cannabis, with two ad hoc committees (ad hoc Medical Marijuana Advisory Committee and ad hoc Cannabis Advisory Committee) and the Board of Supervisors. During these meetings the ad hoc committees and the Board received numerous presentations from the public, county staff, consulting firms, and non-County government agencies, and from people representing different opinion groups (e.g. against commercial cannabis, for commercial cannabis, and supporter and anti-stakeholder groups in between). These meetings included updates on state and federal law changes and benchmark information from different counties and cities that operate cannabis programs or are studying the issue.

In the formation of the ad hoc Cannabis Advisory Committee, the Board of Supervisors provided a goal for the ad hoc committee to study and create ballot measures for different commercial cannabis activities tied to taxation for a local election. A parallel and supporting goal was for the County and the public to gain a better understanding of what commercial cannabis activities the public would want to allow.

#### Further History of Cannabis Public Meetings in El Dorado County

In September 2015, the California State Legislature enacted the Medical Marijuana Regulation and Safety Act (MMRSA), which was signed into law in October 2015. MMRSA was a package of three separate bills (AB 243, AB 266, and SB 643) that established a comprehensive dual state licensing framework for the commercial cultivation, manufacture, retail, sale, transport, distribution, delivery, testing, and taxation of medical cannabis in California. The County did not conduct meetings regarding medical marijuana in 2015 due to the major statutory overhauls undertaken by the State of California, which resulted in MMRSA.

The El Dorado County Board of Supervisors created the ad hoc medical marijuana advisory committee at its March 15, 2016 special meeting regarding medical marijuana, due to the October 2015 passage of and February 2016 amendments to MMRSA. During that special meeting, the Board of Supervisors received an overview on the current medical marijuana laws and reports from County departments, stakeholder groups and the public on how medical marijuana policy decisions could affect them. At the conclusion of the meeting, the Board of Supervisors created the ad hoc Medical Marijuana Advisory Committee to collect more information on different medical marijuana topics (e.g. cultivation, dispensaries, compliance, commercial activities, etc.).

The Medical Marijuana Advisory Committee met on nine occasions: May 2, 2016 meeting was on the

structure of the future meetings; June 20, 2016 meeting was on cultivation; June 27, 2016 meeting was on niche medical marijuana businesses (e.g. dispensaries, nurseries, etc.); August 22, 2016 meeting was on compliance procedures regarding medical marijuana rules; September 19, 2016 meeting was on taxation and fees for medical marijuana; December 12, 2016 meeting was on conceptual changes to the medical marijuana enforcement procedures (e.g. moving towards a civil enforcement process); March 27, 2017 meeting was to discuss the County's administrative decisions for Proposition 64; October 12, 2017 meeting was to discuss recommendations to the Board of Supervisors on new civil enforcement process and October 23, 2017 meeting was to discuss the ad hoc committee's recommendation to the El Dorado County Board of Supervisors on medical and recreational cannabis commercial licenses.

During the time period that the El Dorado County ad hoc Medical Marijuana Advisory Committee was meeting, the California cannabis laws were changing. In June 2016, Governor Edmund G. Brown signed SB 837, which changed the name of the MMRSA to the Medical Cannabis Regulation and Safety Act (MCRSA) and made substantive changes to applicable state laws. The changes affect the various state agencies involved in regulating cannabis businesses as well as potential licensees.

On November 8, 2016, California voters passed Proposition 64, also known as the Control, Regulate and Tax Adult Use of Marijuana Act (AUMA), by a vote of 57.1% in favor and 43.9% against. Locally, El Dorado County voters rejected Proposition 64 by a vote 50.1% against and 49.9% in favor (these numbers include the cities of Placerville and South Lake Tahoe). Proposition 64 legalized the non-medical use of cannabis by persons 21 years of age and over and the cultivation of no more than six (6) living cannabis plants for personal use, subject to reasonable regulations adopted by local jurisdictions. AUMA also created a state regulatory and licensing framework governing the commercial cultivation, manufacture, testing, and distribution of adult use/recreational cannabis.

On June 27, 2017, Governor Brown signed into law the Legislature-approved Senate Bill 94 (SB 94). SB 94 combined elements of the MCRSA and AUMA to establish a single, streamlined regulatory and licensing structure for both medicinal and adult-use cannabis activities, since there were discrepancies between the MCRSA and AUMA. The new, consolidated provisions under SB 94 are now known as the Medicinal and Adult-Use Cannabis Regulation and Safety Act (MAUCRSA), to be governed by the California Bureau of Cannabis Control, CalCannabis Cultivation Licensing, and California Manufactured Safety Branch. MAUCRSA notably refers to medical cannabis as "medicinal cannabis" and nonmedical/recreational cannabis as "adult-use cannabis."

At its November 14, 2017 meeting, the Board of Supervisors conceptually approved the temporary ban on commercial activities for both medical and recreational (adult) cannabis, with the exception of the medical cannabis dispensaries allowed to operate under El Dorado County Section 130.14.250.

At the Board of Supervisors December 12, 2017 meeting, the Board created the ad hoc Cannabis Advisory Committee with a goal for the ad hoc committee to study and create ballot measures for different commercial cannabis activities tied to taxation for a local election. Behind this goal was to get a better understanding of what commercial cannabis activities the public would want to allow due to how broad Proposition 64 was. The committee met publicly on nine occasions: January 31, 2018 meeting was on the structure of the future meetings and the ad hoc committee goals; March 5, 2018 meeting was on commercial outdoor cultivation; March 12, 2018 meeting was on indoor and mixed light (greenhouse) cultivation; March 19, 2018 meeting was on dispensaries, deliveries, and distribution; April 23, 2018 meeting was on microbusiness, nurseries, and laboratory testing; April 30, 2018 meeting was on manufacturing; May 7, 2018 meeting was on tax rates and funding of a

commercial cannabis program; May 14, 2018 meeting was on the effects of cannabis on communities and County departments; and June 19, 2018 meeting was on the proposed commercial cannabis ballot measures.

### **ALTERNATIVES**

The Board could choose to ask staff to return with revised implementation steps and timelines for the Commercial Cannabis Program. In addition, the Board could not approve the new position. Without the addition of the new position, other countywide priorities will be delayed.

### **OTHER DEPARTMENT / AGENCY INVOLVEMENT**

Sheriff's Office; District Attorney; County Counsel; Planning and Building; Environmental Management; Agriculture, Weights and Measures; Treasurer-Tax Collector; and Air Quality Management District.

### **CAO RECOMMENDATION**

It is recommended that the Board hear this item and approve staff's recommendation to ensure timely implementation of the voter approved measures.

### **FINANCIAL IMPACT**

The Deputy Chief Administrative Officer position is currently funded through the General Fund. However, costs in the Chief Administrative Office budget are partially recouped from State and Federal funding sources through the A-87 Cost Plan.

The Deputy Chief Administrative Officer assigned to develop the Cannabis Program will participate in a "time study" which will document the number of hours and the costs associated with the development and eventual management of the program. The commercial cannabis time will be calculated in the commercial cannabis fee study.

The Principal Management Analyst Position will be funded through the General Fund. Costs in the Chief Administrative Office budget are partially recouped from State and Federal funding sources through the A-87 Cost Plan. The estimated cost of the additional position for the remainder of FY 2018-19 is \$80,000. The annual cost of this position is approximately \$166,000. In future years, cannabis fees would fund the new Cannabis Program and would offset the estimated General Fund costs.

### **Commercial Cannabis Program**

It is the intent of the County to recoup all costs associated with the development, implementation and management of the Commercial Cannabis Program.

There are two revenues that could come with the initiation of a commercial cannabis program. First are the commercial cannabis program fees. These fees would be charged to the individuals that are operating permitted commercial cannabis activities in El Dorado County. The fees that are charged would go toward operating the compliance program, which would make sure that the operators were following the El Dorado County rules. The fees can only be used on staff and expenses that relate to the El Dorado County commercial cannabis regulatory program.

Second is the general tax that will be charged. This general tax revenue could be given to programs that are affected by the proliferation of illegal cannabis activities and use. For example, funds could

be used for Public Health education programs to educate El Dorado County youth against the use of recreational cannabis and law enforcement for the eradication of illegal commercial cannabis cultivation that endanger our communities and environment. The eradication of illegal commercial cannabis cultivation could be an expensive task. It is estimated in Stanislaus County that it would cost \$3.1 million annually to enforce an unregulated market in their county. This cost could be more in El Dorado County with its difficult topography.

The County requested HdL Companies to do a tax revenue projection for the commercial cannabis measures. HdL has experience in revenue projections for cities and counties in the cannabis market. In its report, HdL looked at many different variables to get a range of tax revenue that the County could receive if the commercial cannabis ballot measures were approved. In its calculation HdL had to use different scenarios due to the different situations that could happen if the ballot measures are passed (e.g. how many licenses are given, what tax rate is selected, what mix of license types are granted, etc.). With all the variables in place HdL provided an estimated tax revenue range between \$1.9 million to \$52.8 million. However, in HdL's report, it did not think that the high end projection would ever occur due to the tax rate discouraging the industry from coming to the County and discouraging growers from coming out of the black market. At this time, with the current market trends, HdL thinks that a more conservative estimate is in between \$3.0 million and \$4.0 million.

#### **CLERK OF THE BOARD FOLLOW UP ACTIONS**

Send a copy of the adopted and signed resolution to Katie Lee in Human Resources.

#### **STRATEGIC PLAN COMPONENT**

Public Safety and Healthy Communities

#### **CONTACT**

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