



Legislation Text

File #: 18-1103, **Version:** 1

Ad Hoc Cannabis Committee, in coordination with the Chief Administrative Office recommending the Board:

- 1) Approve and authorize the Chair to sign the following Resolutions to place the following ballot measures on the ballot for the November 2018 election which will enable voters to decide whether to allow different aspects of commercial cannabis and its taxation:
 - a) Resolution **140-2018**, which will be one ballot measure, create a general commercial cannabis tax, with tax rate ranges that allows for the Board to set the tax rates for different commercial uses (e.g. outdoor cultivation, indoor cultivation, dispensary/retail sales, etc.) and a discretionary permitting process, with public feedback and an extensive enforcement program with a fine schedule for illegal commercial cannabis activity or violations of the County regulations.
 - b) Resolution **141-2018**, allow for the outdoor and mixed light (e.g. greenhouse) cultivation of medicinal commercial cannabis with limits on the location of cultivation, amount of operations, and size of operations with rules to protect neighborhood security and the environment.
 - c) Resolution **142-2018**, allow for the outdoor and mixed light (e.g. greenhouse) cultivation of recreational commercial cannabis with limits on the location of cultivation, amount of operations, and size of operations with rules to protect neighborhood security and the environment.
 - d) Resolution **143-2018**, allow for indoor medicinal commercial cannabis operations (e.g. retail/dispensary sales, distribution and, indoor commercial cultivation) with limits on the location and amount of operations with rules to protect neighborhood security and the environment.
 - e) Resolution **144-2018**, allow for indoor recreational commercial cannabis operations (e.g. retail/dispensary sales, distribution, and indoor commercial cultivation) with limits on the location and amount of operations with rules to protect neighborhood security and the environment.
- 2) Dissolve the ad hoc Cannabis Advisory Committee. (Est. Time: 2 Hr.)

FUNDING: General Tax and Commercial Cannabis Program Fees.

DEPARTMENT RECOMMENDATION

Ad Hoc Cannabis Committee, in coordination with the Chief Administrative Office recommending the Board:

- 1) Approve and authorize the Chair to sign Resolution 140-2018, Resolution 141-2018, Resolution 142-2018, Resolution 143-2018, and Resolution 144-2018 to place the following ballot measures on the ballot for the November 2018 election which will enable voters to decide whether to allow different aspects of commercial cannabis and its taxation:
 - a) In Resolution 140-2018, which will be one ballot measure, create a general commercial cannabis tax, with tax rate ranges that allows for the Board to set the tax rates for different commercial uses (e.g. outdoor cultivation, indoor cultivation, dispensary/retail sales, etc.) and a discretionary permitting process, with public feedback and an extensive enforcement program with a fine schedule for illegal

commercial cannabis activity or violations of the County regulations.

b) In Resolution 141-2018, allow for the outdoor and mixed light (e.g. greenhouse) cultivation of medicinal commercial cannabis with limits on the location of cultivation, amount of operations, and size of operations with rules to protect neighborhood security and the environment.

c) In Resolution 142-2018, allow for the outdoor and mixed light (e.g. greenhouse) cultivation of recreational commercial cannabis with limits on the location of cultivation, amount of operations, and size of operations with rules to protect neighborhood security and the environment.

d) In Resolution 143-2018, allow for indoor medicinal commercial cannabis operations (e.g. retail/dispensary sales, distribution and, indoor commercial cultivation) with limits on the location and amount of operations with rules to protect neighborhood security and the environment.

e) In Resolution 144-2018, allow for indoor recreational commercial cannabis operations (e.g. retail/dispensary sales, distribution, and indoor commercial cultivation) with limits on the location and amount of operations with rules to protect neighborhood security and the environment.

2) Dissolve the ad hoc Cannabis Advisory Committee.

This item is recommended due to a Board of Supervisors' goal to bring forward ballot measures to allow the citizens of El Dorado County to decide whether to allow commercial cannabis activities in the unincorporated areas of the County.

DISCUSSION / BACKGROUND

Since March 15, 2016, El Dorado County has held, at least, 28 public meetings on the subject of cannabis during two ad hoc committees and Board of Supervisor meetings, which includes the meeting on July 17, 2018. During these meetings there have been presentations from the public, county staff, consulting firms, and non-County government agencies with 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. Behind this goal was to get 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 that 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 the 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 the Board of Supervisors meeting on November 14, 2017, the Board 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 not to approve this recommendation. The following are some alternative options:

- 1) Eliminate one or more of the ballot questions being recommended.
- 2) Eliminate all of the ballot questions being recommended.

The elimination of one or more of the ballot questions could put in jeopardy the ability of the voters to decide what they wish to allow. The commercial cannabis topic is complex and it is recommended that five questions be asked to provide a broad range of questions without overly complicating the ballot. The ballot measures will also allow the County to gain an understanding of what the voters want to allow for commercial cannabis.

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 approve this item.

FINANCIAL IMPACT

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 to operate 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 would be charged if the first ballot question passes. 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

Obtain Chair's signature on the Resolutions and return a signed copy to the Chief Administrative Office.

STRATEGIC PLAN COMPONENT

Public Safety and Healthy Communities

CONTACT

Creighton Avila, Deputy Chief Administrative Officer