



Legislation Text

File #: 21-1516, **Version:** 1

HEARING - To consider the Department of Agriculture recommending the Board approve and authorize the Chair to sign an urgency Ordinance **5154** extending an interim moratorium on the cultivation of industrial hemp for all purposes within the unincorporated areas of the County of El Dorado for twelve (12) months and direct staff to develop an ordinance for a permanent ban on industrial hemp.

FUNDING: N/A

DISCUSSION / BACKGROUND

Following a presentation on industrial hemp by the Agriculture Department on June 23, 2020, the Board appointed District I Supervisor John Hidahl and District IV Supervisor Lori Parlin to a Hemp Ad Hoc Committee, and directed the Department of Agriculture, Weights and Measures, the Sheriff, and the Hemp Program Ad Hoc Committee to return to the Board for further direction.

On December 15, 2020, the Ad Hoc Committee recommended and the Board adopted Urgency Ordinance 5137 implementing a temporary forty-five day moratorium on the cultivation of industrial hemp (Legistar Item #20-1481). The Board approved an extension for an additional ten months (10) and fifteen (15) days on January 26, 2021 (Legistar Item #21-0045).

Beginning in September of 2020, the Hemp Ad Hoc Committee held six public meetings to discuss developing reasonable regulations for the cultivation of industrial hemp in the County. The Hemp Ad Hoc Committee discussed several topics, including reasonable setback amounts, odor concerns, and pollen drift concerns. In those meetings, the committee discovered that the science and data surrounding the impact of hemp cultivation on agriculture is new and evolving.

The committee was particularly concerned of the potential impact of the cultivation of hemp on the emerging cannabis industry and potential effects on wine grapes and other existing El Dorado County agricultural crops. Santa Rosa Junior College has embarked upon a multi-year program to define and quantify the agricultural impacts from hemp and corresponding mitigation measures that could be applied. The Ad Hoc committee has encouraged the continued collection of information/data from this source and others to develop a better understanding of hemp growing best management practices. Additionally, because Industrial hemp is a derivative of the plant *Cannabis sativa L.* and that plant can also be grown for cannabis purposes, it can be difficult to visually distinguish between *Cannabis sativa L.* grown for industrial hemp purposes and one grown for cannabis purposes. This makes it difficult for law enforcement and code enforcement to independently distinguish between an industrial hemp plant and a cannabis plant without obtaining samples for testing and having those samples tested. The committee was concerned that a grower might be incentivized by the similarity between the plants and the comparatively liberal hemp laws to cultivate cannabis disguised as industrial hemp instead of obtaining a Commercial Cannabis Annual Operating Permit and a Commercial Cannabis Use Permit from the Planning and Building Department. This would undermine the County's cannabis program and impose a danger to health, safety, and the environment.

Without adequate data, the committee was concerned that they could not fully evaluate the potential impact of the cultivation of industrial hemp. The committee has not held meetings to discuss other issues including enforcement, fees, destruction of crops, testing, and signage.

The California Industrial Hemp Farming Act authorized the commercial production of industrial hemp in California and became effective on January 1, 2017 due to a provision in the Adult Use of Marijuana Act (Proposition 64, November 2016). As directed by this Act, the California Department of Food and Agriculture developed an industrial hemp cultivation program and opened registration on April 30, 2019. California's proposed State Regulatory Plan for hemp production was submitted to the United States Department of Agriculture for review and approval on September 17, 2020. The Federal Final Rule establishing the U.S. Domestic Hemp Production Program was published on January 19, 2021 and became effective March 22, 2021. California is currently updating its State Regulatory Plan to meet the changes in the Federal Final Rule and will be resubmitting the plan to the United States Department of Agriculture.

The Hemp Ad Hoc Committee considered the development of a pilot program that would allow registrants who were issued a registration in the year before the moratorium was enacted to be issued a new registration in 2021. The purpose of the pilot program would be to develop additional data and information for the development of reasonable regulations on the cultivation of hemp. The committee held a meeting on April 27, 2021, to discuss this option. It was concluded from that meeting that there was inadequate time to develop regulations for the pilot program. Furthermore, the grower borne costs to fund: 1) the Sheriff's Office THC testing; 2) odor testing of fields via the nasal ranger instrument; and 3) the Ag department's staff and resource requirements to manage the pilot program lacked definition.

The Hemp Ad Hoc Committee concluded at the April 27, 2021 meeting that there was not adequate science and data to develop reasonable regulations at this time. The committee recommends that the Board give conceptual approval to staff to develop a permanent ban on hemp cultivation in the County.

On May 18, 2021, the Board requested the Sheriff and the Agricultural Commissioner/Sealer of Weights & Measures to explore Hemp with the Agricultural Commission and return to the Board in November 2021 with a recommendation or update; Directed the Planning and Building Department Director to explore economic opportunities relative to Hemp with the Community and Economic Development Advisory Committee and return to the Board in November 2021 with a recommendation or update (Legistar Item #21-0540). The Agricultural Commission selected two members to work with the Community and Economic Development Advisory Committee (CEDAC) who returned to the Agricultural Commission with a request to submit a letter on October 13, 2021 to the Board of Supervisors in support of an Industrial Hemp pilot project following a discussion and a power point presentation by CEDAC. These documents are attached to this board item.

The moratorium will expire on December 11, 2021, and while the Industrial Hemp Industry has the potential to be a viable economic commodity, there are still a number of regulatory hurdles to meet before growth can occur. Today the Agriculture Department is presenting this board item as a request to the Board to extend the moratorium for another year and give direction to staff to develop an ordinance for a permanent ban on industrial hemp. The Department will continue to monitor information from the state program, other counties and research that occurs and report this information back to the Board for further review.

Additional information from the Sheriff's Office is provided in Attachment F, and additional information from the Ag Department is provided in Attachment H.

ALTERNATIVES

- 1) The Board could choose not to adopt a permanent ban on industrial Hemp.
- 2) Allow the Department of Agriculture and other department agencies to work with staff to develop a pilot program with reasonable regulations of Industrial Hemp.

PRIOR BOARD ACTION

The Ad Hoc Committee was established following a presentation on industrial hemp by the Agriculture Department on June 23, 2020 (Legistar Item #20-0468), and formed the Ad Hoc Hemp Committee to include District I Supervisor John Hidahl and District IV Supervisor Lori Parlin.

On September 22, 2020, the Board of Supervisors provided direction on the scope of study for the Ad Hoc Committee (Legistar Item #20-1181).

On December 15, 2020, the Board adopted Urgency Ordinance 5137 implementing a temporary forty-five day moratorium on the cultivation of industrial hemp (Legistar Item #20-1481). The Board approved an extension for an additional ten months (10) and fifteen (15) days on January 26, 2021 (Legistar Item #21-0045).

On May 18, 2021 a motion was made by Supervisor Thomas, seconded by Supervisor Novasel to: 1) Direct the Sheriff and the Agricultural Commissioner/Sealer of Weights & Measures to explore Hemp with the Agricultural Commission and return to the Board in November 2021 with a recommendation or update; and 2) Direct the Planning and Building Department Director to explore economic opportunities relative to Hemp with the Community and Economic Development Advisory Committee and return to the Board in November 2021 with a recommendation or update (Legistar Item #21-0540).

On September 9, 2021 the Agricultural Commission selected two members to review Hemp information and report back to the Commission the following month (Legistar Item # 21-0948).

On October 13, 2021 the Agricultural Commission had a report and a presentation by Lexi Boeger, member of the CEDAC with a proposal letter sent to the Board of Supervisors on October 14, 2021 (Legistar Item 21-1623).

OTHER DEPARTMENT / AGENCY INVOLVEMENT

Sheriff's Office, County Counsel, Planning and Building, and Community and Economic Development Advisory Committee

CAO RECOMMENDATION / COMMENTS

It is recommended that the Board approve the Ordinance extending the moratorium, and provide direction to staff to return to the Board with a new ordinance for a permanent ban on industrial hemp.

FINANCIAL IMPACT

Currently the only funding for the Hemp program in the Agriculture Department is solely for registration and renewal issuance, and training of county personnel covered under the California

Department of Food and Agriculture (CDFA) contract and other billable cost as associated with the CDFA Hemp program.

Staff estimates that a 10 registrant industrial hemp pilot program would cost approximately \$20,000 per year, which would include the staff time to develop and implement the program. This cost would require the use of General Fund.

CLERK OF THE BOARD FOLLOW UP ACTIONS

File Paperwork for extension of Urgency Ordinance through December 6, 2022

STRATEGIC PLAN COMPONENT

Public Safety and Healthy Communities

CONTACT

Charlene Carveth, Agricultural Commissioner, Sealer of Weights & Measures
Sheriff John D'Agostini, El Dorado County