



County of Monterey

Item No.

Board Report

Board of Supervisors
Chambers
168 W. Alisal St., 1st Floor
Salinas, CA 93901

Legistar File Number: BC 23-135

October 25, 2023

Introduced: 10/10/2023

Current Status: Agenda Ready

Version: 1

Matter Type: Budget Committee

- a. Receive and accept the Cannabis Program update on performance indicators for Fiscal Year 2022-2023; and
- b. Provide direction to staff as appropriate.

RECOMMENDATION:

It is recommended that the Budget Committee:

- a. Receive and accept the Cannabis Program update on performance indicators for Fiscal Year 2022-2023; and
- b. Provide direction to staff as appropriate.

SUMMARY/DISCUSSION:

In the Fiscal Year (FY) 2021-22 report to the Board of Supervisors (Board) Budget Committee, the Cannabis Program (Program) provided an outlook of the commercial cannabis industry which faced several crises: significant declines in wholesale pricing due to statewide oversaturation of commercial cannabis, a growing unlicensed market, winter storms that caused flooding and mold, a resurgence of the Hop-Latent viroid, and ongoing financial hardships due to a lack of access capital. Although the message is somewhat the same for FY 2022-23, the remaining businesses, 9 retail and 58 non-retail, in the County of Monterey (County) were able to sustain themselves through the uncertainty while continuously working to achieve local compliance.

Industry articles reinforce that the industry faces a difficult outlook due to ongoing oversupply, the state's high taxes, and challenging regulations. These stories also predict consolidations that will continue and accelerate, the difficult licensing deadlines for social equity applicants, a decrease in state grant awards, and reduced products on retail business shelves. Despite this adversity, here are highlights of our County's commercial cannabis industry from FY 2022-23:

- 18 land use permits were approved by Housing and Community Development (HCD).
- 22 Cannabis Business Permits (CBP) were issued by the Program.
 - 219 state commercial cannabis licenses, or 68%, are eligible to convert from provisional to annual.
- 34 commercial cannabis business closed operations.
 - The most common reason for closure was insolvency, followed by property evictions.
- The Program reviewed and approved 36 canopy modification requests:
 - 19 to decrease and 17 to increase.
- The County of Monterey Eradication Team abated approximately 97,703 unlicensed plans

and 38,430 pounds of unlicensed processed cannabis.

The Program collects data from various sources and provides a monthly report on many of the indicators listed above to the Board Cannabis Committee, who directed staff to share these indicators monthly with the full Board. Attached are the outcomes for FY 2022-23 (Attachment A). Included in this report are the following Exhibits.

- Cannabis Program Allocations FY 2022-23 (*Exhibit A*)
 - At the start of FY 2022-23, the Board approved 25.23 positions at a cost of \$6.2 million across 9 departments to be used for cannabis related work.
 - In response to ongoing declines in cannabis business tax revenue and an uptick in business closures, the Board decided to scale back the Program to 18.98 positions in February 2023 and reduce FY 2022-23 costs to \$5.5 million.
 - Also included in this Exhibit are the ending balances of the allocation of the Cannabis Program Contingency and Allocation for Enforcement Against Unlicensed Activity.
 - The Cannabis Program Contingency was eliminated during the FY 2023-24 Budget Hearings.
 - The Allocation for Enforcement Against Unlicensed Activity was further reduced to \$75,000 in the FY 2023-24 budget.
- FY 2022-23 Resource Utilization (*Exhibit B*)
 - Staff use a payroll override code on timesheets to track and charge time spent on cannabis program functions. The Auditor-Controller's Office (ACO) produced a payroll report to review all applicable time charged to the Program and prepared an analysis to review the utilization of every position that provides support to the Program and is funded by cannabis revenues.
 - The calculation includes the actual hours spent and tracked by employees on cannabis related work divided by a pre-determined set of hours available. The hours available were determined based on a total of 2,080 hours net of non-productive hours such as holidays and paid leave.
 - The ACO has calculated four sets of hours to account for position classification and benefits related to paid time off as defined by the employee's bargaining unit.
- Industry Indicators (*Exhibit C*)
 - Cultivation and nursery square footage is declared by cultivators, either on their CBP or Provisional CBP.
 - All canopy registration must fall at or below the maximum square footage allowed by state licensure and measurements are taken during compliance inspections to ensure that these limits are not exceeded.
 - Cultivators may modify their canopy up to two times per annual term of their permit.
 - Cannabis tax revenue for cultivation is billed annually and collected quarterly, however as described above, canopy limits may be amended up to two times during the annual term.
 - Because of this fluctuation, cultivation square footage for FY 2023-24 is

- reported as a projected annualized figure that assumes each business will remain operational and will not modify up or down for the remainder of the fiscal year.
- The Board recently directed staff to implement a formal payment plan for unpaid cannabis business tax installments.
 - FY 2021-22 Q2-Q4
 - 9 have completed repayment.
 - 10 elected to extend repayment through March 2026 with an interest rate of 1.5% compounded monthly.
 - 12 defaulted and have ceased operations.
 - FY 2022-23 Q1-Q4
 - 26 are participating in the payment plan with repayment by December 2023.
 - 19 are current.
 - 7 have missed one payment under the payment plan.
 - Cannabis business tax revenue collection figures were provided by the ACO.
 - In September 2022, the Board adopted Ordinance 5384 which reduced cultivation tax rates retroactive to October 2021 to \$3/\$2/\$1 for Indoor/Mixed Light/Nursery respectively.
 - In February 2023, the Board adopted Ordinance 5396 which further reduced cultivation tax rates retroactive to January 2023 to \$2.13/\$1.46/\$0.71 for Indoor/Mixed Light/Nursery respectively.
 - The commercial cannabis tax revenue collected in FY 2022-23 was approximately \$3.6 million.
 - \$2.1 million collected for FY 2022-23 taxes.
 - \$1.5 million collected for prior year payment plans.
 - Due to the ongoing market downturn, there was a significant uptick in business closures that is reflected in this exhibit.
 - This count only includes businesses who were operational.
 - Other Cannabis Revenue FY 2022-23 (*Exhibit D*)
 - The County received \$893k in other non-tax related revenues. These revenues include direct fees for cannabis business licenses and permits, penalties and fees, and court settlements and fines.
 - Up to now, these revenues haven't been part of the Program's revenues and are therefore not used to offset Program costs. These cannabis related revenues are instead used by the receiving department at their own discretion.
 - Cannabis Compliance Inspections FY 2022-23 (*Exhibit E*)
 - At the start of the Fiscal Year there were 8.75 inspection staff allocated across three departments:
 - 3.25 within Health Department, Environmental Health Bureau (EHB)
 - 3.00 within Housing Community Development (HCD).
 - 2.50 within Agricultural Commissioner (AC)
 - The AC inspection staff is contracted with the Department of Cannabis Control and does not participate in the compliance

inspections conducted by the Program.

- As described above, the Board reduced inspection staff to 4.0 beginning in February 2023:
 - 2.00 within EHB.
 - 2.00 within HCD.
- A total of 494 inspections were conducted during this reporting period.
- Cannabis Assignment Allocations FY 2022-23 (*Exhibit F*)
 - In the prior fiscal year, \$14,496,743.00 was approved for release from the assignment balance. Cannabis assignment allocations have been outlined by category, usage, and department.
 - Staff has categorized allocations according to the five priority areas identified by the community focus groups in 2018, which were held to determine how cannabis revenue should be spent.

OTHER AGENCY INVOLVEMENT:


Monterey County Departments involved in the Cannabis Program have provided performance indicator data:

Agricultural Commissioner
Auditor Controller
County Administrative Office
Office of the County Counsel
District Attorney
Health Department
Housing and Community Development
Sheriff Office
Treasurer Tax Collector


FINANCING:

Approval of this recommendation will not result in additional general fund contributions.

Prepared by: Joann Iwamoto, Cannabis Program Manager, ext. 3017

DocuSigned by:

B759D9F5D66A4D7...

Approved by: Nicholas E. Chiulos, Chief Assistant CAO, ext. 5145

DocuSigned by:

910D1286CA694A8...

Attachment: Cannabis Program FY 2022-23 Performance Indicators