



County of Monterey

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

Board Report

File #: BC 18-103, Version: 1

Receive a Cannabis Program Status Report with Budget Augmentation Requests.

RECOMMENDATION:

It is recommended that the Board of Supervisors Budget Committee support and approve:

- a. Amend the Agricultural Commissioner Office Budget Unit 001-2810-8001-AGR001 to add one (1) FTE, Weights and Measures Inspector III;
- b. Amend the County Administrative Office (CAO) Budget Unit 001-1050-8054-CAO004 to add one (1) FTE, Management Analyst III;
- c. Amend the CAO Budget Unit 001-1050-8045-CAO001 to add one (1) FTE, Accounting Clerk;
- d. Amend the District Attorney Budget Unit 001-2240-8062-DIS001 to add two (2) FTEs: one (1) District Attorney Investigator III, and one (1) Deputy District Attorney;
- e. Amend Health Department - Environmental Health Bureau Budget Unit 001-4000-8116-HEA005 to add two (2) FTEs: two (2) Environmental Health Inspector III;
- f. Amend Resource Management Agency Budget Unit 001-3000-8170-RMA011 to add one (1) FTE, Code Compliance Inspector II position;
- g. Authorize an increase in appropriations in the amount of \$300,000 to the CAO Other Financial Uses Budget Unit 001-1050-8038-7013-CAO17 of which \$100,000 is allocated from the General Fund Cannabis Assignment, BSA-3132. (4/5th vote required);
- h. Authorize an increase to estimated appropriations in the amount \$149,732 for the Agricultural Commissioner Office Budget Unit 001-2810-8001-AGR001 (4/5th vote required);
- i. Authorize an increase to estimated appropriations in the amount \$145,819 for the CAO Budget Unit 001-1050-8054-CAO004 (4/5th vote required);
- j. Authorize an increase to estimated appropriations in the amount \$73,284 for the CAO Budget Unit 001-1050-8045-CAO001 (4/5th vote required);
- k. Authorize an increase to estimated appropriations in the amount \$594,999 for the District Attorney Budget Unit 001-2240-8062-DIS001 (4/5th vote required);
- l. Authorize an increase to estimated appropriations in the amount \$129,757 for the Resource Management Agency Budget Unit 001-3000-8170-RMA011 (4/5th vote required);
- m. Authorize an increase to estimated appropriations in the amount \$275,130 for the Health Department - Environmental Health Bureau Budget Unit 001-4000-8116-HEA005 (4/5th vote required);
- n. Authorize an increase to revenues in the amount \$1,668,721 for CAO Non-Program Revenue Cannabis Tax 001-1050-8041-4130-CAO019 (4/5th vote required);
- o. Authorize the CAO to incorporate the changes to the FY 2018-19 Adopted Budget to reflect the change in position counts;
- p. Authorize the Auditor-Controller's Office to incorporate approved modifications in the FY 2018-19 Adopted Budget.

SUMMARY/DISCUSSION:

Monterey County desires to become a cannabis industry leader in the State of California. To become a leader, we must demonstrate the highest performance level of an industry that is used as a standard or benchmark for

others. Often, a leader will equal or exceed their own expectations. The Monterey County Cannabis Program completed one of the important critical steps in becoming an industry leader by developing the Cannabis Program Strategic Plan. (Attachment A). The Strategic Plan and accompanying Implementation Action Plan was presented and approved by the Board of Supervisors Cannabis Committee on July 23, 2018. The plans will be presented to the Board of Supervisors in November 2018 for their approval. During the development of the Strategic Plan, insufficient allocations were identified as a critical area of concern that would need to be further evaluated and addressed with the Board of Supervisors.

Cannabis Program Major Accomplishments with Current Staffing Allocations:

In June 2018, the Board of Supervisors approved 11.48 full-time equivalent staff allocated to the Cannabis Program at a cost of \$2,731,110. In our efforts to achieve the Board of Supervisors expectations for the Cannabis Program, departments have adjusted priorities and realigned staff to work on Cannabis Program tasks to accomplish the following:

- Development of the Cannabis Program Strategic Plan and Program Webpage.
- Coordination and collection of Cannabis Tax Revenue estimated at \$14.6MM.
- Initial Compliance Inspections found variations between self-reported cannabis square foot cultivation and actual cultivation measured. Highlights of June 2018 inspections found:
 - 16 businesses visited on multiple parcels.
 - 2 were deemed to be in tax compliance.
 - Square footage was underreported by an average of 73%.
 - Reported square footage 113,040.
 - Measured square footage 419,997.
 - Equates to approximately \$1.2MM in underpayments.
- Board of Supervisors Cannabis Committee topics addressed to date:
 - Reduced cannabis tax rate (amended and gained Board of Supervisor approval of Monterey County Code 7.100).
 - Collaboration with outside agencies: Pacific Gas & Electric, Monterey Bay Air Regional Board, State Water Board, CA Department of Fish & Wildlife to further assist our operators to meet regulatory and local compliance.
 - Retail setbacks; amended ordinance in process.
 - Outdoor cultivation; amended ordinance in process.
 - Change from Use Permit to Administrative Permit; amended ordinance in process.
- Continued review of 250+ State Agency Temporary and Annual Operator License requests.
- Formed a Cannabis Permit Task Force consisting of departments to share and track permit progress and data.
- Working with ITD to develop a shared database for efficiency and work production.
- Legislative work related to:
 - Hemp grown for research purposes, and monitoring the State's work on regulations for industrial hemp.
 - Extension of State Temporary Licenses for 2019.
- Continue to collaborate with the Cannabis Industry to process 99 formal Use/Coastal Development Permit applications.
 - At the end of July 2018, an additional 22 applications were resubmitted as formal applications. To meet the requirements of the Permit Streamlining Act, the County may need an outside

consultant to assist with application processing. A request for additional funding is requested as detailed above.

- First Industry Workshop (September 2018) with internal and external agency participation to further provide information to our industry and achieve collaborative goals.
- Formation of the Health Department public health ad hoc planning committee to address subjects on public awareness, community engagement surveillance and community design, and youth based prevention/early prevention intervention.
- Monterey County Cannabis Program lead the development of the “Coastal County Cannabis Program Manager Forum” to share best practices between jurisdictions. First meeting scheduled for September 2018.
- Restructured Cannabis Enforcement Task Force which identifies two separate groups, Enforcement, and Compliance:
 - This is a crucial component of the Program with efforts to facilitate economic development, protection of public safety, health, and the environment as the industry flourishes; and implementation of a well-managed County program with effective and equitable compliance, and enforcement that is self-funded.
- Started the process to have ESS track Cannabis Program Department staff time. As an example, the table below identifies staff costs and related hours for July 2018. This snapshot of staff hours includes 54 County employees, which may indicate that the Program needs are outpacing the budgeted allocations. The Cannabis Program is complex and involves more staff than what was anticipated. The tracking of staff hours is one method to evaluate actual the program costs of doing business. Further study and analysis over time will provide information to support this assumption. Departments are making the effort to collaborate and realign staffing and department priorities to meet the needs of the Cannabis Program. (See Attachment A-1)

Cannabis Program Enforcement: Two Different Teams: Enforcement and Compliance:

The Enforcement Task Force is committed to work collaboratively internally, as well as with our cannabis industry. Our goal is to foster a legal, compliant industry where we demonstrate our internal and industry best practices. While the legal cannabis industry is developing in Monterey County, it is critical that the illegal cannabis activity be controlled.

The Cannabis Program Enforcement Task Force had not previously included a process or identified the need for compliance resources because enforcement was historically based reactive rather than proactive enforcement. Staff finds that the current environment requires a more proactive approach to manage compliance checks on legal operators. One additional Code Compliance Inspector would allow staff to visit sites and meet with operator’s multiple times per year, which is what staff feels is and will be needed for Program compliance. RMA would assume the lead for these inspections (verifying canopy, assessing site conditions, condition compliance once permits are issued, etc.). This is a crucial component of the Program with efforts to facilitate economic development, protection of public safety, health, and the environment as the industry flourishes; and implementation of a well-managed County program with effective and equitable compliance, and enforcement that is self-funded.

- Compliance - focuses on compliance with County and state laws by operators who are legally operating, or are attempting to operate legally in the County. Typically, the process to cure non-compliance occurs over a period of time working with cooperative business operators. Compliance cases will use the administrative process through Code Enforcement, Environmental Health, or the Agricultural

Commissioner when needed. Compliance cases can be escalated to Enforcement when necessary.

- Enforcement - focuses on stopping illegal cannabis operations or unfair business practices. Enforcement against an illegal cannabis operation occurs when there is engagement in any unpermitted cannabis activity without obtaining all required permits and licenses. Enforcement cases will use the civil or criminal prosecution process through the Sheriff and District Attorney. Compliance Task Force departments may be called to participate in the enforcement actions.

Cannabis Program Budget Allocation Request:

During FY 2017-18, the Cannabis Program departments were requested to project staffing allocations for FY 2018-19. The initial estimated cost was \$10,214,557. Through further analysis it was reduced to \$7,383,898. Departments were again requested to re-evaluate their requests due to budget constraints and were allocated \$2,731,110. During the last five months, the program has evolved with state regulation changes, collaboration, and refinement of internal processes, as examples.

The overall Cannabis Program is currently allocated with one Program Manager to coordinate and collaborate nine County departments, implement the Strategic Plan, act as the State Agency Point of Contact, assist our industry operators, track multiple data collection systems, and create program standards and efficiencies. The Program functions and demands out pace one position in a practical manner. Staff hours exceed a normal 40-hour work week. Examples of work tasks that involve more time than anticipated include, but are not limited to, communication between departments and state agencies, data collection, and analytics. The Program requests additional staff support.

Attachment A-2 shows the FY 2018-19 Board of Supervisor approved Cannabis Program allocations as reported in the 2019 Recommended Budget. The last two columns show the request for additional allocations to the Cannabis Program. If approved, the total allocations for the Cannabis Program would be 19.48 full-time equivalent employees at a cost of \$4,329,072. The FY 2018-19 Cannabis Tax Revenue would fund the newly requested allocations based on the estimated cannabis revenue provided in FY 17-18 except for \$100,000 which would be considered one-time money for the purpose of an outside consultant to assist with cannabis permit processing. The \$100,000 would be funded from the General Fund Cannabis Assignment. Staff recommends the Board of Supervisors consider the Cannabis Program's core operational needs for effectiveness and efficiency before allocating funds to other countywide requests.

Cannabis Program Enforcement/Compliance Performance Measures:

A set of Enforcement and Compliance Performance Measures have now been created. It is important to note that as the Program continuously improves, and with Board Cannabis Committee input, the performance measures may change over time. Staff feels that the current set of performance measures, Attachment B, provides data as we best know it today.

FINANCING:

The approval of the recommended actions will require augmentations to the following departments in budget FY 2018-19, financed by an increase to revenues in CAO Non-Program Revenue Cannabis Tax, in the amount of \$1,668,721. (See Attachment A-3)

BOARD OF SUPERVISORS STRATEGIC INITIATIVES:

Proposed augmentation requests for additional staffing provides support to the overall program to meet the

Board of Supervisors expectations while supporting departments who have shifted priorities to meet the Cannabis Program needs. Additional staffing will gain efficiencies of internal processes including staff time and meeting expected service levels.

Related Board of Supervisors Strategic Initiatives include:

- X Economic Development
- X Administration
- X Health & Human Services
- X Infrastructure
- X Public Safety

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Approved by: Nicholas E. Chiulos, Assistant CAO

Attachments:

- Attachment A: Diagrams
- Attachment B: Cannabis Program Strategic Plan
- Attachment C: Cannabis Program Performance Measures
- Attachment D: Agricultural Commissioner Memorandum
- Attachment E: District Attorney Report
- Attachment F: Health Department, Environmental Health Bureau Augmentation Request
- Attachment G: Resource Management Agency Memorandum

cc:

- Lew Bauman, County Administrative Officer
- Dewayne Woods, Assistant County Administrative Officer
- Dean Flippo, District Attorney
- Jeannine Pacioni, District Attorney Elect
- Mary Zeeb, Treasurer Tax Collector
- Sheriff Steve Bernal
- John Mineau, Undersheriff
- Carl Holm, Resource Management Agency Director
- John Ramirez, Health Department, Environmental Health Bureau Chief
- Ric Encarnacion, Health Department, Assistant Environmental Health Bureau Chief
- Bob Roach, Assistant Agricultural Commissioner
- Kelly Donlon, Office of the County Counsel