



Board Report

File #: 21-686, **Version:** 1

- a. Receive a report on the findings of the equity assessment;
- b. Approve the proposed development and implementation of a Monterey County equity program;
- c. Direct the Cannabis Program Manager to develop an equity program structure including applicant criteria and return to the Board of Supervisors to gain policy direction;
- d. Approve the Cannabis Program Manager to make an application for the State of California Go-Biz Tier II grant; and
- e. Provide direction to staff as appropriate.

RECOMMENDATIONS:

It is recommended that the Board of Supervisors:

- a. Receive a report on the findings of the equity assessment;
- b. Approve the proposed development and implementation of a Monterey County equity program;
- c. Direct the Cannabis Program Manager to develop an equity program structure including applicant criteria and return to the Board of Supervisors to gain policy direction;
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- e. Provide direction to staff as appropriate.

SUMMARY

In January 2020, the Cannabis Program (“Program”) was informed of a grant opportunity offered through the Governor’s Office of Business and Economic Development (“GO-Biz”). With guidance from the Legislative Program, Program staff submitted an application to GO-BIZ in March 2020 for Type 1 funding to conduct an equity assessment to identify marginalized segments within Monterey County, and groups of individuals most impacted by economic disparities and cannabis arrest rates which will inform the creation of a local equity program.

In April 2020, the Program was informed the County received the \$150,000 grant award. In May 2020, the Board of Supervisors authorized the Cannabis Program Manager to execute a grant agreement with GO-Biz to receive grant funding. In July 2020, the Board of Supervisors authorized the Cannabis Program Manager to execute an agreement with University Corporation, at Monterey Bay to partner with staff from the Institute for Community Collaborative Studies (“ICCS”) at California State University Monterey Bay (“CSUMB”). This agreement was fully executed in August 2020 and work promptly commenced.

The discussion section below will summarize findings and conclusions of the Equity Assessment Final Report (Attachment A) and provide options to consider for a local equity program.

DISCUSSION

Equity Assessment Goals and Methodology

The equity assessment was organized around three goals that respond to the State requirements, and serve as a guide for development of an equity program in Monterey County. These goals were accomplished through a combination of primary and secondary data. These goals include:

1. Quantify the impact of cannabis criminalization in Monterey County from 1995-2016, including laws regulating cannabis use, commercialization, and cultivation including identifying disproportionate impacts on different demographic groups.
2. Identify the barriers to enter the legal cannabis industry in Monterey County that could be addressed by an equity program.
3. Identify eligibility characteristics for potential applicants and programmatic supports that could be considered in the design of a future equity program.

Primary data analysis began with key informants and stakeholder focus groups including indoor cultivators, outdoor cultivators, legal counsel/strategic industry leadership, and Public Health. These discussions focused on how cannabis regulations have impacted operators, including criminalization before legalization and barriers to entry after legalization. Insights from these groups would guide the development of a business and community survey. The business survey was available to individuals who were either currently, or interested in operating, while the community survey was available to the public.

Secondary data analysis included literature review and a historical analysis of jail bookings involving cannabis-related charges in Monterey County. Internal stakeholders informed Program and CSUMB staff of the limitations of the arrest data. This aligns with the completed equity assessments of other jurisdictions, which are similarly limited in scope due to the complexity of tracking individual arrests through to conviction or dismissal.

Assessment Findings

Goal 1: Quantify impact of cannabis criminalization

The War on Drugs (“WoD”) severely affected trust levels in government and law enforcement agencies and this distrust may delay development of the licensed cannabis industry. Several impacts of criminal records resulting from the WoD were reported, including stigma, loss of property, and financial and employment opportunities.

- Approximately 99% of the cannabis-related charges present in bookings between 1995 and 2016 significantly changed in severity and enforcement after Prop 64 passed in 2016.
- Individuals identifying as Hispanic or African American experienced a disproportionate rate of arrests relative to their share of the population between 1995 and 2005. Only African American individuals continued to experience a disproportionate share of arrests between 2006 and 2016.
- Regional analysis suggests the regions that experienced a disproportionate share of arrests (relative to the population in 2018) were the unincorporated areas of the County and, to a lesser extent, the City of Salinas.

Goal 2: Identify barriers to enter licensed cannabis industry

Barriers to entry were identified as a driving factor in the persistence of the unlicensed market, with a particular emphasis on scale. Large operators have the financing to bear the costs imposed by the licensed industry while smaller operators cannot, especially when operations cannot begin until obtaining all required licenses and permits.

- Initial and ongoing costs associated with compliance do not scale with the size of the operation, therefore only the largest operators can afford to enter and remain in the licensed industry. Participants referenced the fact that there are several large mixed-light cultivators in greenhouses within the Salinas Valley and there are no small-scale heritage outdoor cultivators in Big Sur/Cachagua areas under the

outdoor cultivation pilot program.

- Financial assistance (subsidies, waivers, etc.) would not be relevant if the underlying property is ineligible for permitting due to existing regulations: planning area, zoning, setbacks, etc.
- Technical assistance with state and local regulations would not be relevant if the applicant could not afford to lease/develop a property while awaiting licenses and permits.

Goal 3: Identify eligibility criteria and benefits

Participants identified geographic areas and individuals impacted the most by the WoD as a top priority for an equity program. Several jurisdictions have adopted equity programs with varying criteria and benefits for eligible applicants. The criteria and benefits proposed by participants align with those of existing equity programs.

- Financial assistance with compliance costs: license/permit fees, taxes, etc.
- Technical assistance with understanding and achieving compliance with state/local regulations.
- Assistance with securing a business location, financial planning, and employee training.
- Prioritize individuals who were working within the industry before legalization, those with cannabis-related convictions, low-income, or veterans.

Conclusions and Recommendations

An effective equity program will require collaboration between the Monterey County Board of Supervisors, Cannabis Program, County Departments, non-profit organizations, community, and the licensed cannabis industry. The WoD created strong, lingering feelings of distrust of government, police, and the criminal justice system. To alleviate this distrust, staff recommends the Program to engage stakeholders in the planning process for an equity program. As part of this, the County could consider specific actions to actively encourage communities that were disproportionally affected by past cannabis criminalization to participate in the industry as part of the equity program.

Many jurisdictions have initially or retroactively incorporated an equity component into their regulations (Attachment A, Appendix A) to address harms that arose from past policies. While this is encouraging, it is also important to note:

- No jurisdiction has a perfect equity program model, and there is an abundance of commentary on the unintended consequences of common criteria/benefits.
- The licensed industry is still in its infancy within the State of California.
- Jurisdictions continue to develop policies that best serve the needs of their constituents.
- Due to the nuance of the industry and the ongoing evolution of regulations, there continues to be a steep learning curve for both operators and regulators.

Staff recommends the Program should continue to remain apprised of the development, implementation, and outcomes of equity programs adopted by other jurisdictions. Equity programs have been adopted by three counties with varying criteria and benefits, but waived or deferred fees are a shared benefit of all three. Criteria and benefits of existing equity programs should be adapted to the licensed cannabis industry within Monterey County, which is predominantly cultivation oriented. A synergy between equity program and existing infrastructure would maximize potential benefits to equity applicants.

Staff have completed interviews with the GO-Biz Equity Grant Coordinator, the Hood Incubator, Statewide

Cannabis Apprenticeship Program, and the City of Oakland.

On July 12, 2021, Governor Gavin Newsom signed AB 141, which modifies the state provisional licensing system. Under new regulations, the Department of Cannabis Control may issue provisional licenses through June 30, 2022 with the renewal of provisional licenses who meet specific criteria through December 31, 2024. One of the criteria to renew through June 30, 2023 is being an equity applicant. Provisional licenses would no longer be valid after January 1, 2026.

These new requirements have increased the urgency for the adoption of a local equity program to ensure that interested applicants are not excluded from participating in the licensed industry. A local equity program would establish criteria to determine the equity status of an applicant and provide benefits to alleviate the financial and technical barriers to entry posed by these new requirements.

Staff has prepared the proposed development and implementation of a local equity program:

1. The implementation of an equity program should be a phased approach.
2. Conduct focus groups to further engage communities that were found to be disproportionately impacted by the WoD and establish eligibility criteria.
3. Revisit the Retirement, Remediation and Relocation (“RRR”) concept-a concept intended to incentivize the transfer of development rights from one area to another to satisfy criteria which were not met at the original site-as a component of an equity program for applicants interested in outdoor cultivation.
4. Organize workshops with cannabis cultivators to gain input for an incubator component which has been implemented in other jurisdictions to identify a business or consultant to provide mentorship, resources and/or services to equity applicants in exchange for fee waivers or expedited processing.
5. Consider additional funding to support the equity program effort with the State of California Local Assistance Grant Program. The State is gathering input from eligible counties on how to best utilize this funding. The State recognizes equity as one of those uses.
6. Identify a County funding source and commitment amount for an equity program.

In addition to these options, staff recommends approval to make an application for GO-Biz Tier II equity grant funding when made available.

OTHER AGENCY INVOLVEMENT:

The Office of the County Counsel was involved in the preparation of the report.

FINANCING:

Monterey County’s Cannabis Program is funded in County Administrative Office - Department 1050, Intergovernmental and Legislative Affairs Division - Unit 8533, Cannabis. The approval of this report will not incur additional expenses to this fund. Depending on direction provided, there could be a reduction of commercial cannabis revenue assignment.

BOARD OF SUPERVISORS STRATEGIC INITIATIVES:

The Monterey County Cannabis Program addresses each of the Strategic Initiative Policy Areas that promote the growth of a responsible and legal Monterey County cannabis industry.

Mark a check to the related Board of Supervisors Strategic Initiatives

- 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:

A: Equity Assessment Final Report