

## REPORT OF THE CHIEF LEGISLATIVE ANALYST

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DATE: November 21, 2022

TO: Honorable Members of the Rules, Elections, and Intergovernmental Relations Committee

FROM: Sharon M. Tso *Avak Keotahian - rg For* Assignment No: 22-09-0558  
Chief Legislative Analyst

SUBJECT: Department of Cannabis Regulation 2023-2024 Legislative Proposals

### CLA RECOMMENDATION:

1. ADOPT the attached Resolutions recommending legislative positions for the 2023-2024 State Legislative Program, as submitted by the Department of Cannabis Regulation, to support legislative proposals that would:
  - Extend the State's provisional application deadline beyond March 31, 2022 in order to allow for Social Equity Individual Applicants to achieve full licensure;
  - Further reduce taxes, increase tax credits, or impose a tax moratorium, or provide fee waivers and deferrals to licensed Social Equity cannabis operators;
  - Increase grant funding for Social Equity Programs and require favorable equity lending standards; and
  - Enhance local enforcement authority to prosecute and enjoin water theft as well as water pollution in order to combat water theft stemming from illegal cannabis grows, similar to AB 2421 (Rubio; 2022).
2. ADOPT the attached Resolutions recommending legislative positions for the 2023-2024 Federal Legislative Program, as submitted by the Department of Cannabis Regulation, to support legislative proposals that would:
  - Decriminalize and deschedule cannabis as a Schedule I controlled substance, as well as create a Community Reinvestment Grant Program that provides job training, reentry services, legal aid, literacy programs, youth recreation or mentoring programs, and health educations programs; and
  - Enable licensed cannabis businesses to access traditional banking services, such as checking accounts, credit card services, and other vital banking services.

### SUMMARY

The Mayor and Council President requested that City departments submit recommendations for legislation to be included in the 2023-2024 Federal and State Legislative Programs. In response, the Department of Cannabis Regulation (DCR) submitted multiple proposals for consideration. Our office recommends that Council support and/or sponsor these proposals.

## BACKGROUND

### **2023-2024 State Legislative Priorities**

#### *Racial Equity*

According to the DCR, due to the complex nature of the application process, deadlines are an obstacle that unnecessarily impacts a Social Equity Applicant's path to obtaining a license. Social Equity applicants' time to market is significantly longer than currently contemplated by the State's existing provisional deadline. Rather than letting Social Equity applicants fall out of the licensing pipeline for not meeting the existing provisional deadline, the DCR is recommending support for legislation or administrative action that would extend the State's existing deadline beyond March 31, 2022 in order to allow Social Equity applicants to achieve full licensure.

As a result of the passage of the California Cannabis Equity Act of 2018 and SB 166 (2021), Social Equity Applicants and Licensees were offered a means to obtain waivers for application fees, licensing fees, and renewal fees. These bills also provided grants to cities that established their own equity programs to help facilitate the licensure of Social Equity applicants. According to the DCR, although existing subsidies have helped alleviate the obstacles faced by Social Equity applicants and operators when operating their businesses, State and local cannabis taxes continue to cripple their businesses. The DCR is recommending support for legislation that would result in tax reductions, credits, or moratoriums, or fee waivers and deferrals for Social Equity operators in order to help level the playing field currently dominated by big businesses and corporations.

According to the DCR, a large percentage of Social Equity applicants do not have significant access to funding to start their cannabis businesses. Due to this, Social Equity applicants often seek out investors where they are often out-leveraged or offered less-than-favorable terms for investments and loans. In order to help reduce reliance on outside investors, the DCR is recommending support for legislation that would increase State grant funding and require favorable equity lending standards for Social Equity applicants.

#### *Climate Change*

Introduced in the State legislature in 2022, AB 2421 (Rubio) would enhance local enforcement authority to prosecute and enjoin water theft as well as water pollution in order to combat water theft stemming from illegal cannabis grows. AB 2421 would provide that the specified affirmative defense to a violation of the criminal provision does not apply in any other civil action related to the alleged violation resulting from unpermitted cannabis cultivation. This bill would also authorize for a violation resulting from unpermitted cannabis cultivation be brought by a county counsel in the name of the State of California. AB 2421 was passed in the Assembly but did not pass the Senate. The DCR is recommending support and/or sponsorship for legislation that is similar to AB 2421 (Rubio).

## **2023-2024 Federal Legislative Priorities**

### *Cannabis Decriminalization and Descheduling*

Currently pending in the U.S. Senate, H.R. 3617 (Nadler), also known as the Marijuana Opportunity Reinvestment and Expungement (MORE) Act, would decriminalize and deschedule cannabis, allowing every licensed cannabis operator in Los Angeles to access a newly created national cannabis market and supply chain. The MORE Act would also create a national Social Equity Program that will supplement the City's Social Equity Program in order to provide further support to the Social Equity Community in the City. Additionally, the MORE Act's expungement provision will work in tandem with California's expungement efforts and help to clear the records of individuals that were arrested or convicted of an activity that is no longer a crime under state and local law. The DCR is recommending support for H.R. 3617 and sponsorship for legislation in the 118<sup>th</sup> Congress that is similar to H.R. 3617.

### *Access to Banking Services for Licensed Cannabis Businesses*

Currently pending in the U.S. Senate S. 910 (Merkley), also known as the Secure and Fair Enforcement (SAFE) Banking Act of 2021, would enable licensed cannabis businesses to access banking services, such as checking accounts, credit card services, and other vital banking services. Access to banking services would allow cannabis businesses to pay City fees and taxes via check or electronic banking transaction, removing the need to process and secure cash payments. According to the DCR, this bill would help provide banking services to Social Equity Applicants, who typically have reduced or no access to traditional banking services. The DCR indicates that there is a list of encouraged recommendations or amendments to the bill that should be considered as they take into account changes that better support Social Equity Applicants.



Steve Luu  
Analyst

# RESOLUTION

WHEREAS, any official position of the City of Los Angeles with respect to legislation, rules, regulations or policies proposed to or pending before a local, state or federal governmental body or agency must have first been adopted in the form of a Resolution by the City Council with the concurrence of the Mayor; and

WHEREAS, the City's Social Equity Program offers assistance to individuals who seek to start their own cannabis businesses in the growing legal cannabis market and were adversely impacted by the unequal enforcement of cannabis laws; and

WHEREAS, while the City's Social Equity Program has done considerable work to give Social Equity Individual Applicants a head start in the cannabis industry, many applicants and operators still face obstacles on their paths to success; and

WHEREAS, as a result of the complex nature of the application process, deadlines are an obstacle that can impact a Social Equity Applicant's path to starting their cannabis businesses; and

WHEREAS, in conjunction with procuring sufficient capital and real estate, and establishing compliant operations, Social Equity Applicants' time to market is significantly longer compared to their corporate counterparts; and

WHEREAS, in order to help increase Social Equity Applicants' chances of success, the State can extend the current State provisional application deadline beyond March 31, 2022 to allow these Applicants to achieve full licensure; and

WHEREAS, extending the provisional application deadline will help prevent Social Equity Applicants from falling out of the licensing pipeline;

NOW, THEREFORE, BE IT RESOLVED, with the concurrence of the Mayor, that by the adoption of this Resolution, the City of Los Angeles hereby includes in its 2023-2024 State Legislative Program SUPPORT or Sponsorship for any legislation or administrative action that would extend the State's provisional application deadline for Social Equity Individual Applicants beyond March 31, 2022, to allow these Applicants to achieve full licensure.

# RESOLUTION

WHEREAS, any official position of the City of Los Angeles with respect to legislation, rules, regulations or policies proposed to or pending before a local, state or federal governmental body or agency must have first been adopted in the form of a Resolution by the City Council with the concurrence of the Mayor; and

WHEREAS, the City's Social Equity Program offers assistance to individuals who seek to start their own cannabis businesses in the growing legal cannabis market and were adversely impacted by the unequal enforcement of cannabis laws; and

WHEREAS, the California Cannabis Equity Act of 2018 and SB 166 (2021) established a means for Social Equity Applicants and Licensees to obtain waivers for application fees, licensing fees, and renewal fees through grants to local jurisdictions that have established their own Social Equity programs; and

WHEREAS, many Social Equity operators continue to face obstacles on their paths to success, including steep State and local cannabis taxes and operating costs, which can lead these operators to seek out alternative methods of financing that are unfavorable to their businesses; and

WHEREAS, Social Equity Applicants and Licensees may need further State tax reduction, tax credits or a tax moratorium in order to help level the playing field against big cannabis businesses and corporations; and

WHEREAS, the City has supported similar legislation in the past that would provide Social Equity Program Applicants and Licensees a tax credit for businesses expenses that are not allowed to be claimed as a tax credit under federal law;

NOW, THEREFORE, BE IT RESOLVED, with the concurrence of the Mayor, that by the adoption of this Resolution, the City of Los Angeles hereby includes in its 2023-2024 State Legislative Program SUPPORT or Sponsorship for any legislation or administrative action that would provide tax reductions, credits, or moratoriums, or provide fee waivers and deferrals to licensed Social Equity cannabis operators.

# RESOLUTION

WHEREAS, any official position of the City of Los Angeles with respect to legislation, rules, regulations or policies proposed to or pending before a local, state or federal governmental body or agency must have first been adopted in the form of a Resolution by the City Council with the concurrence of the Mayor; and

WHEREAS, the City's Social Equity Program offers assistance to individuals who seek to start their own cannabis businesses in the growing legal cannabis market and were adversely impacted by the unequal enforcement of cannabis laws; and

WHEREAS, a large percentage of Social Equity Applicants do not have significant access to capital to start their cannabis businesses, leading them to search for investors that may offer less-than-favorable terms for their businesses; and

WHEREAS, cannabis is federally classified as a Schedule I controlled substance and licensed cannabis operators struggle to access traditional banking services for their businesses, such as checking accounts, credit card services, and other vital banking services; and

WHEREAS, licensed cannabis operators seek out alternative methods of financing for their businesses, which can expose them to discriminatory lending practices; and

WHEREAS, in order to reduce Social Equity Applicants' reliance on outside investors, the State should increase grant funding in order to assist with the start-up and operating costs, and require favorable equity lending standards for investors;

NOW, THEREFORE, BE IT RESOLVED, with the concurrence of the Mayor, that by the adoption of this Resolution, the City of Los Angeles hereby includes in its 2023-2024 State Legislative Program SUPPORT or Sponsorship for any legislation or administrative action that would increase State grant funding for cannabis operators participating in Social Equity Programs and require favorable equity lending standards for Social Equity Applicants and operators.

# RESOLUTION

WHEREAS, any official position of the City of Los Angeles with respect to legislation, rules, regulations or policies proposed to or pending before a local, state or federal governmental body or agency must have first been adopted in the form of a Resolution by the City Council with the concurrence of the Mayor; and

WHEREAS, there has been an increase of illegal cannabis grow houses in residential neighborhoods and remote unincorporated areas; and

WHEREAS, recent busts have shown a rise in the proliferation of larger illegal grow operations that do not adhere to testing, licensing, and other compliance measures, often straining the local power supply and polluting the local drinking and potable water supply; and

WHEREAS, the L.A. County Board of Supervisors has passed legislation asking the County Counsel and State officials to devise a plan to civilly prosecute water thieves and increase local government controls over illegal cannabis grows; and

WHEREAS, AB 2421 (Rubio), which was introduced in the 2021-2022 State Legislative Session, would have enhanced local enforcement authority by authorizing county counsels and city attorneys to civilly prosecute and enjoin water theft, as well as water pollution in order to combat water theft and illegal cannabis grows; and

WHEREAS, removing existing limitations on prosecutorial authority would enable local governments to take direct action against water theft and water pollution that is harming local communities;

NOW, THEREFORE, BE IT RESOLVED, with the concurrence of the Mayor, that by the adoption of this Resolution, the City of Los Angeles hereby includes in its 2023-2024 State Legislative Program SUPPORT or Sponsorship for any legislation or administrative action that would enhance local enforcement authority by authorizing county counsels and city attorneys to civilly prosecute and enjoin water theft, as well as water pollution in order to combat water theft and illegal cannabis grows.

# RESOLUTION

WHEREAS, any official position of the City of Los Angeles with respect to legislation, rules, regulations or policies proposed to or pending before a local, state or federal governmental body or agency must have first been adopted in the form of a Resolution by the City Council with the concurrence of the Mayor; and

WHEREAS, cannabis is federally classified as a Schedule I substance under the Controlled Substances Act, and as a result, has limited licensed cannabis operators from accessing banking services for their businesses; and

WHEREAS, currently pending in the U.S. Senate, H.R. 3617, also known as the Marijuana Opportunity Reinvestment and Expungement (MORE) Act, would decriminalize and deschedule cannabis as a Schedule I substance, allowing every licensed cannabis operator to access a newly created national cannabis market and supply chain; and

WHEREAS, several states and local jurisdictions, including the County of Los Angeles, have sought to dismiss, expunge, and seal past cannabis-related convictions for prior marijuana crimes that are no longer considered a crime under legalization; and

WHEREAS, the MORE Act would work in tandem with California's expungement efforts and help to clear the records of individuals who have been arrested or convicted of an activity that is no longer a crime under State and local law; and

WHEREAS, the MORE Act would create a Community Reinvestment Grant Program whereby taxes collected through the sale of cannabis products would be used for services, such as job training, reentry services, legal aid, literacy programs, youth recreation or mentoring programs, and health educations programs;

NOW, THEREFORE, BE IT RESOLVED, with the concurrence of the Mayor, that by the adoption of this Resolution, the City of Los Angeles hereby includes in its 2023-2024 Federal Legislative Program SUPPORT or Sponsorship for any legislation or administrative action, including the Marijuana Opportunity Reinvestment and Expungement (MORE) Act, that would 1) decriminalize and deschedule cannabis as a Schedule I substance under the Controlled Substances Act, and 2) create a Community Reinvestment Grant Program that provides job training, reentry services, legal aid, literacy programs, youth recreation or mentoring programs, and health educations programs.



# RESOLUTION

WHEREAS, any official position of the City of Los Angeles with respect to legislation, rules, regulations or policies proposed to or pending before a local, state or federal governmental body or agency must have first been adopted in the form of a Resolution by the City Council with the concurrence of the Mayor; and

WHEREAS, cannabis is federally classified as a Schedule I controlled substance and as a result licensed cannabis operators struggle to access traditional banking services for their businesses, such as checking accounts, credit card services, and other vital banking services; and

WHEREAS, currently pending in the U.S. Congress, S. 910, also known as the Secure and Fair Enforcement (SAFE) Banking Act of 2021, would enable licensed cannabis businesses to access banking services; and

WHEREAS, cannabis businesses currently pay their City fees and taxes through secure cash payments, which creates a public safety risk for these businesses due to the amount of physical cash that is being stored at cannabis retailers and transported across the City; and

WHEREAS, access to traditional banking services would allow cannabis businesses to pay City fees and taxes by check or electronic banking transaction, reducing the risks associated with cash payments; and

WHEREAS, access to traditional banking services would help cannabis businesses transition away from their all-cash business model and allow them to accept credit cards and other payment methods for their transactions; and

WHEREAS, transitioning to electronic banking transactions or checks to pay for City fees and taxes would help alleviate City staff resources as they will no longer have to process and secure cash payments;

NOW, THEREFORE, BE IT RESOLVED, with the concurrence of the Mayor, that by the adoption of this Resolution, the City of Los Angeles hereby includes in its 2023-2024 Federal Legislative Program SUPPORT or Sponsorship for any legislation or administrative action, including the Secure and Fair Enforcement (SAFE) Banking Act of 2021, that would allow enable licensed cannabis businesses to access traditional banking services, such as checking accounts, credit card services, and other vital banking services.