



# TOWN OF FAIRFAX

## STAFF REPORT

### January 13, 2016 Special Meeting

**TO:** Mayor and Town Council

**FROM:** Garrett Toy, Town Manager

**SUBJECT:** Authorize the Mayor to send a letter to the State Senate in support of AB 21, an urgency measure which removes from State statute the provision that local medical marijuana cultivation regulations must be in effect as of March 1, 2016 in order to maintain local control

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#### **RECOMMENDATION**

Authorize the Mayor to send the attached letter.

#### **DISCUSSION**

In November 2015, the Council discussed the impacts of three new bills – AB 243, AB 266, and SB 643 – on local municipalities. With regard to AB 243, which requires the State to develop a Medical Cannabis Cultivation Program, staff reported that AB 243 sets a deadline of March 1, 2016, for a town to adopt regulations regarding the cultivation of medical marijuana or the State will become the sole licensing authority. The Council stated it wanted to maintain local control.

On this evening's regular Council agenda is an Ordinance governing medical marijuana cultivation. The intent of the ordinance is to retain local control by getting something on the books that indicates the Town is regulating cultivation in some fashion.

AB 21 would eliminate the pressing need to get an ordinance on the books by removing the provision that local regulations must be in effect as of March 1, 2016 in order to maintain local control. If approved by the State prior to the Council's February meeting to consider an urgency ordinance regarding medical marijuana cultivation and the second reading of the Ordinance, the Council would have the option of "slowing down" and could refer the matter back to the Planning Commission with additional direction.

The League of California Cities recommends support of AB 21 without any amendments, (i.e., solely focuses on the removal of the March 1, 2016 date). Staff will have a status update on AB 21's progress at the meeting.

#### **ATTACHMENT**

Draft letter in support of AB 21

SPECIAL MEETING

AGENDA ITEM # 1

DRAFT

January 13, 2016

The Honorable Rob Bonta  
Member, California State Assembly  
State Capitol – Room 6005  
Sacramento, CA 95814  
Via FAX: (916) 319-2118

RE: **AB 21 (Bonta, Cooley, Jones-Sawyer, Lackey, and Wood) – Medical Marijuana Cultivation** *(as amended January 4, 2016)*  
**Notice of SUPPORT**

On behalf of the Town of Fairfax, I am pleased to support Assembly Bill 21 (Bonta, Cooley, Jones-Sawyer, Lackey, and Wood).

This measure addresses the need to remove from statute a provision that would harm cities by pre-empting them from enacting cultivation regulations if they do not have such regulations in effect as of March 1, 2016. Specifically, Section 11362.777(c)(4), states:

"If a city, county, or city and county does not have land use regulations or ordinances regulating or prohibiting the cultivation of marijuana, either expressly or otherwise under principles of permissive zoning, or chooses not to administer a conditional permit program pursuant to this section, then commencing March 1, 2016, the division shall be the sole licensing authority for medical marijuana cultivation applicants in that city, county, or city and county."

This provision is problematic and should not have been included in the final version of last year's Assembly Bill 243 (Wood), as it is inconsistent with other timelines associated with implementing the regulatory framework, namely launching the state cultivation licensing process.

In addition, the above provision directly contradicts the concept of local control, which for the League was a central theme of last year's historic Medical Marijuana Regulation and Safety Act. It also conflicts with a critical component of AB 266 (for the League, the key measure among the trio of last year's bills enacting medical marijuana regulation), that of dual licensing. Dual licensing requires both state and local governments to authorize medical marijuana business operations in any specific jurisdiction, and is modeled after the regulatory structure in Colorado.

**ATTACHMENT** 1

Without this legislation removing the pre-emption provision, a number of cities throughout California will suffer harm through the loss of their local regulatory authority after March 1st.

The Town of Fairfax, along with many others, are now working to craft regulatory ordinances pertaining to medical marijuana cultivation, but need more time than that allotted by the March 1<sup>st</sup> deadline. Specifically, we are in the process of engaging the community to draft language for a local regulation of medical marijuana. Finally, this legislation will remove the motivation many jurisdictions have had in recent weeks to rush to enact cultivation bans as a means of preserving their local regulatory authority.

The Town of Fairfax strongly desires to retain the ability to decide the rules within its own borders and supports AB 21, as drafted.

Sincerely,

RENEE GODDARD  
Mayor  
Town of Fairfax