



June 29, 2021

The Honorable Toni Atkins
President pro Tempore of the Senate
State Capitol, Room 205
Sacramento, CA 95814

The Honorable Nancy Skinner
Chair, Senate Budget & Fiscal Review
Committee
State Capitol, Room 5019
Sacramento, CA 95814

The Honorable Anthony Rendon
Speaker of the Assembly
State Capitol, Room 219
Sacramento, CA 95814

The Honorable Phil Ting
Chair, Assembly Budget Committee
State Capitol, Room 6026
Sacramento, CA 95814

**RE: AB 141 / SB 141: Budget Act of 2021: Department of Cannabis Control
OPPOSE, UNLESS AMENDED**

Dear Pro Tem Atkins, Speaker Rendon, Chair Skinner and Chair Ting:

On behalf of the California Cannabis Industry Association (CCIA), International Cannabis Farmers Association (ICFA), Rural County Representatives of California (RCRC), California State Association of Counties (CSAC) and California League of Cities (Cal Cities), which collectively represent 476 cities, 58 counties and over 600 licensed cannabis businesses, regret to inform you of our **oppose, unless amended** position on AB 141/SB 141, the budget trailer bill on cannabis, as amended June 28, 2021.

While we support the provisions in the bill to consolidate the three cannabis licensing agencies into a new Department of Cannabis Control, we have significant concerns with the language extending the cannabis provisional license program.

Enacted in 2018, the cannabis provisional license program was developed to ensure that existing cannabis operators are able to legally operate while their applications for annual licensure are being evaluated by the State and local governments. Yet, according to recent data obtained by the State, approximately 8,600 cannabis businesses, representing over 80 percent of all cannabis licenses, are still under provisional licensure, necessitating an extension of the provisional license program before it expires on January 1, 2022.

The extension of the provisional licensing program is critical to the stabilization of the regulated cannabis industry. Yet the language, as currently proposed in the bill, was developed absent any input from local governments and the legal industry, both of which are tasked with meeting the State's rigorous environmental requirements as set forth in the Medicinal and Adult-Use Cannabis Regulation and Safety Act. In fact, when our organizations were finally notified about the language, we were informed that modifications would not be accepted and that the language was final.

Consequently, AB 141/SB 141 fails to acknowledge a variety of common methods utilized by lead agencies to comply with CEQA when issuing permits and licenses for commercial cannabis activities. Furthermore, this bill imposes unachievable and unrealistic timelines on local jurisdictions faced with processing high volumes of cannabis permits¹, which risks putting thousands of existing, provisionally licensed cannabis operators out of compliance with state law, and making them ineligible for provisional license renewal.

Our concerns with AB 141/SB 141 are further outlined below. We have also attached amendments that we respectfully request be included in the bill before it is approved by the Legislature.

- **AB 141/SB 141 imposes unachievable and unrealistic timelines.** The bill imposes unrealistic timelines placed on local jurisdictions to complete the processing of permit applications. These timelines fail to consider the staffing challenges faced by jurisdictions with high volumes of cannabis applications that add hundreds and, in some cases, thousands of applications on departments already struggling to fulfill the permitting needs of their community.

While we are greatly appreciative of the newly developed Local Jurisdiction Grant Program, approved by the Legislature with the passage of AB 128 (Budget Act of 2021) and SB 129 (Amended Budget Act of 2021) to address the application processing backlog faced by local jurisdictions and ensure the timely transition of provisional licensees into annual licenses, the timelines imposed in the bill are out of sync with the timelines for implementing the grant program. Under the existing language, the 17 local jurisdictions eligible for the grant program, which represent 60 percent of all provisional license holders, would be required to draft and submit a grant proposal for approval by the State, implement the proposal including the allocation of direct grant programs to local applicants, and complete the processing of outstanding applications within 12 months of being awarded the grant funds, by July 1, 2023.

It is also important to consider that these jurisdictions will likely need to hire additional staff, or engage consultants that will need to be trained to conduct the cannabis-specific environmental

review, and process applications pursuant to the jurisdiction's local ordinance, in order for the local jurisdiction to issue permits during this 12 month period.

- **AB 141/SB 141 undermines the existing CEQA processes established by many local jurisdictions.** This bill fails to consider the manner in which many local jurisdictions are complying with the State's rigorous CEQA obligations for cannabis. For instance, the language appears to assume that all local jurisdictions conduct "discretionary project-specific environmental review" culminating in preparation of a negative declaration or EIR in every case. This is inaccurate. Many jurisdictions, including Calaveras, Mendocino, Sonoma, Trinity, and Yolo, conduct site-specific review under the auspices of a programmatic CEQA document, using a detailed checklist to identify environmental impacts - as expressly authorized by the CEQA Guidelines and recommended by CalCannabis. As written, AB 141/SB 141 contains no allowance for this commonplace CEQA mechanism, and will require local jurisdictions to completely redesign their CEQA and permitting processes - which will perversely slow the pace of cannabis licensure contrary to the bill's express intent.

AB 141/SB 141 further contains no allowance for licensees who have already completed the local permitting and CEQA processes, and who have received their Notice of Determination or Notice of Exemption under CEQA. Local jurisdiction may have limited flexibility to re-open the CEQA process from scratch for permits already issued.

- Additionally, the provision in 141/SB 141 that "[a]dditional exemptions from the California Environmental Quality Act shall not be adopted with respect to licenses issued under this division" is both poorly drafted and exceedingly problematic. CEQA allows use of categorical exemptions only under circumstances determined not to have a significant effect on the environment by the Resources Agency. Wholly disallowing any use of otherwise appropriate categorical exemptions provides no environmental benefits and adds nothing but cost and delay. Moreover, as written, this preclusion could be interpreted to preclude use of a categorical exemption for any activity "with respect to" a cannabis licensee - not just permit issuance. Simple, commonplace matters such as approving a change in operating hours for a retailer, or issuing an encroachment permit for driveway repairs at a cultivation site could require full-scale CEQA review, an extreme hinderance to ordinary operations not imposed on other legal industries.
- **The language exponentially accelerates the environmental compliance timelines required for applicants and licensees seeking cultivation in excess of a medium license type.** AB 141/SB 141 imposes a more aggressive timeline to achieve full CEQA compliance for existing provisional license holders cultivating in excess of 1-acre of outdoor canopy or cultivating in excess of 22,000 square feet of mixed light or indoor canopy. There is no rationale for requiring local jurisdictions to prioritize, in this manner.

This accelerated aggressive timeline will likely result in the closure of a significant number of cultivation operations throughout the state, resulting in significant losses to local and state tax

revenue, increased rates of joblessness and exacerbate economic challenges faced by local jurisdictions working to overcome the challenges associated with the COVID pandemic.

To address our outstanding concerns, we have included recommended amendments to AB 141/SB 141 (*attached*). Amendments would:

- Delay the implementation of specified requirements imposed on licensees as a condition of receiving a provisional license renewal. This will give both licensees and local governments the time needed to implement the new requirements and complete the processing of permit applications. It will also align with the anticipated allocation of funds pursuant to the Local Assistant Grant Program, approved in the Budget Act of 2021.
- Allow the full range of commonplace mechanisms utilized by lead agencies to meet the State's CEQA obligations for cannabis.
- Strike language that subjects licensees with provisional licenses in excess of a medium license type to a more rigorous timeline, so that the timelines are in alignment with all other provisional licensees.

We thank you for your consideration of our requests and look forward to further discussions to ensure our concerns are addressed.

Sincerely,



Amy Jenkins
CCIA/ICFA



Sarah Dukett
RCRC



Elisa Arcidiacono
Cal Cities



Catherine Freeman
CSAC

Cc: Members, California State Legislature
Nicole Elliott, Senior Advisor on Cannabis, Governor's Office of Business & Economic Development