



COUNTY OF HUMBOLDT

For the meeting of: March 13, 2018

Date: February 23, 2018

To: Board of Supervisors

From: Amy S. Nilsen, County Administrative Officer *AN*

Subject: Joint Exercise of Powers Agreement for California Cannabis Authority and Appointment of Representative

RECOMMENDATIONS:

That the Board of Supervisors:

1. Adopt the attached Resolution to join the California Cannabis Authority (CCA); and
2. Appoint a county representative to serve on the CCA Board of Directors, and one representative to serve as an alternate; and
3. Direct staff to take additional action, as needed.

SOURCE OF FUNDING:

General Fund

DISCUSSION: The CCA is a Joint Powers Authority (JPA) created by agreement between counties and sponsored by the California State Association of Counties (CSAC). The purpose of the organization is to develop and manage a statewide data platform that will gather, collect, and analyze information from a myriad of data sources into one resource, to help local governments ensure cannabis regulatory compliance and also provide necessary information to financial institutions that wish to work with the cannabis industry.

Prepared by Sean Quincey, Senior Administrative Analyst

CAO Approval *Kathy Hayes*

REVIEW:

Auditor *MSW*County Counsel *an*Human Resources *LAB*

Other

TYPE OF ITEM:

☐ Consent
☒ Departmental
☐ Public Hearing
☐ Other

PREVIOUS ACTION/REFERRAL:

Board Order

Meeting of:

BOARD OF SUPERVISORS, COUNTY OF HUMBOLDT
 Upon motion of Supervisor Seconded by Supervisor

Ayes
 Nays
 Abstain
 Absent

SEE ACTION SUMMARY

and carried by those members present, the Board hereby approves the recommended action contained in this Board report.

Dated: _____

By: _____

Kathy Hayes, Clerk of the Board

The Need for Data

The data platform will aggregate data from multiple sources including cultivation sites, point of sale, taxation and socioeconomic data. By combining all of these data points, Humboldt County will be provided with targeted and defensible data, ensuring that what is being reported and what is occurring truly coincide.

The data platform can be used to ensure that adequate tax payments are being made; assist the Sheriff's Office and code enforcement officers with information updated in "real time" which will help the speed of compliance; provide public health officials with product information, including product origin and product flow; and inform community planning efforts by understanding locations, concentrations and potential past or future land use patterns. In addition, as more jurisdictions use this tool and the data platform is populated with data, CCA members will have a broader picture of cannabis activity throughout the state and access to information outside of their jurisdiction.

For Humboldt County, compiling this critical data into one location will not only make it easier to ensure public safety guidelines are being met, but it could serve as a critical link to Cannabis Related Businesses (CRBs) and help the long-term viability of an industry that is linked to Humboldt's future.

Linking Data and Financial Institutions

In addition to the cannabis and finance tracking aspects of the CCA, the CCA is also intended to help solve another industry problem: Banking. Because of the existing federally prohibited status of cannabis, most banking institutions (chartered at the federal level) are unable or unwilling to open accounts for operators in the cannabis industry, despite its legality in the State of California.

To work with CRBs, financial institutions must comply with the rigorous monitoring and reporting requirements needed to potentially utilize banking functions. Institutions must make sure CRBs are not violating state laws or engaging in activities that the federal government considers law enforcement priorities. For each cannabis customer, financial institutions must complete special money laundering and suspicious activities reports. These are onerous requirements that demand extensive staff time.

The CCA hopes to ease this burden by providing detailed information on each CRB to contracting financial institutions, formatted to fit the institution's regulatory reporting requirements. Providing financial institutions with comprehensive licensing and regulatory data on CRBs is the single most important step California can take to increase banking among CRBs.

The State Treasurer's Office has also worked with CSAC regarding these banking issues for CRBs, and the Humboldt County Treasurer-Tax Collector, John Bartholomew, has participated in the working group to help identify solutions to solve the cannabis cash banking problem that Humboldt County and other jurisdictions continue to face.

Governance

The data platform will be developed and managed by the JPA, which is a contract between two or more public agencies to exercise, jointly, all power(s) common to each of them, for the purpose of accomplishing specific shared goals. As set forth in the JPA agreement – as drafted and proposed by CSAC dated January 12, 2018 – member counties will comprise the governing body of the organization. Cities and other public entities will be allowed to participate in the JPA and access data, but will not be part of its governance structure. Financial institutions will have access to CCA data by contract. Non-member, public entity participants will be allowed to join CCA by contract as well.

Your Board must pass a resolution to join the JPA. It should be noted that jurisdictions desiring CCA data access must require cannabis businesses operating within their jurisdiction to provide specific information to the JPA. By agreeing to join the CCA, and pursuant to the terms of the JPA agreement, the county may need to adopt new ordinances and/or change or conform existing ordinances in order to implement the JPA agreement. For example, the CCA would like *all* CRBs within a jurisdiction to participate in sharing their data with the CCA, and Humboldt County may need to alter its current ordinances to ensure compliance from CRBs.

As of the date of this report to your Board, Monterey and San Luis Obispo counties have already adopted resolutions to have their respective counties execute the JPA agreement and join the CCA. The first meeting of the CCA Board of Directors is being planned for March 22, 2018.

It is recommended that Humboldt County pass a Resolution to join the CCA at this time, so that Humboldt County may benefit from being an “early adopter” by having a seat at the table as the JPA gets underway, particularly in discussion of financing parameters (e.g., approving costs of operation and membership fees) and other issues typically taken up when an organization is first formed (e.g., the development and approval of Bylaws).

Appointment

Each member county must have at least one individual designated to serve on the CCA Board of Directors. Monterey and San Luis Obispo counties recently passed resolutions to join the CCA and assigned their respective Treasurer-Tax Collectors to serve on the Board. Monterey County appointed two of its supervisors to serve as alternates. The Humboldt County Treasurer-Tax Collector has expressed his willingness to serve on this board. In addition, Second District Supervisor Estelle Fennell has worked with CSAC staff on several aspects of the CCA and has also expressed her willingness to serve on this board.

It is recommended that your Board designate an official, as well as an alternative, concurrent with your approval of the execution of the JPA Agreement so that the designated Humboldt County official may participate in the first meeting of the CCA Board of Directors, scheduled for March 22, 2018.

Funding

Start-up funding will be provided by CSAC, but the desired model recommended by CSAC for ongoing funding is fee-based. Currently, CSAC has recommended that membership fees be paid by each city or county, and will be dependent upon the total sales within the jurisdiction. The current recommendation by CSAC would have each member agency pay a fee equal to 0.35 percent of sales (or \$3,500 for every \$1 million in retail and cultivation sales) within their jurisdiction. Using the most recent available estimates, Humboldt County would pay \$13,577 in the first year. While this is the current proposed model, it should be noted that the CCA Board of Directors must eventually decide how it will fund itself and this revenue model could be rejected. In addition, please note that there may be changes to the amount of membership fees that will be paid by Humboldt County as the CCA becomes more established and as more members join the CCA. This item recommends the county’s membership fees be paid using revenues derived from Measure S, the cannabis excise tax measure passed by voters in 2016; however, your Board may also consider alternative funding sources to pay the CCA-associated membership fees, including potentially passing on costs to CRBs

FINANCIAL IMPACT:

The initial cost of membership in the CCA is estimated to be around \$13,500 and will be covered by the General Fund, with revenues provided by Measure S. Initial payment will be July 2018 or later for Fiscal Year 2018-19. There should be no financial impact to CRBs as there are no fees included in this item.

The recommended action supports your Board's Strategic Framework of creating opportunities for improved safety and building interjurisdictional and regional cooperation.

OTHER AGENCY INVOLVEMENT:

CSAC and the CSAC Finance Corp.

ALTERNATIVES TO STAFF RECOMMENDATIONS:

Your Board could choose to not adopt the attached resolution regarding execution of a JPA agreement. However, this alternative is not recommended as there is currently no platform that aggregates the type of cannabis-related information described above, which will assist Humboldt County in managing its cannabis program in connection with its tax, regulatory, and enforcement efforts, as well as providing information to financial institutions to help incentivize those financial institutions to work with the cannabis industry. The CCA can help provide that critical data.

ATTACHMENTS:

1. Resolution No. 18-19 : Approving, Authorizing, and Directing Execution of the JPA agreement for membership in the CCA
2. CCA Joint Exercise of Powers Agreement, dated January 12, 2018