



# COUNTY OF HUMBOLDT

## Legislation Text

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File #: 21-1540, Version: 1

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**To:** Board of Supervisors

**From:** Planning and Building Department

**Agenda Section:** Public Hearing

**SUBJECT:**

Authorization to apply for \$18,635,147 available through the non-competitive California Department of Cannabis Control (DCC) Local Jurisdiction Assistance Grant Program and approval of guidelines for the use of the funds received (Case # PLN-2021-17446).

**RECOMMENDATION(S):**

That the Board of Supervisors:

1. Receive and consider the staff report, open the public hearing, and accept public comment;
2. Close the public hearing;
3. Deliberate on submittal of a Local Jurisdiction Assistance Grant Program application and the proposed guidelines for the use of the funds received;
4. Authorize submittal of a Local Jurisdiction Assistance Grant Program application by adopting the Resolution in Attachment 1;
5. Approve the Grant and Loan Program Guidelines for the use of the funds received by adopting the Resolution in Attachment 2;
6. Authorize the Auditor/Controller to set up a new fund titled "Environmental Compliance and Equity Fund" with fund number \_\_\_\_\_, as well as to set up budget unit within that fund;
7. Authorize the Auditor/Controller to transfer the funds from DCC's Local Jurisdiction Assistance Grant Program into the Environmental Compliance and Equity Fund upon receipt;
8. Direct Planning and Building Director or designee to administer the Grant and Loan Program subject to the Guidelines in Attachment 2; and
9. Direct Planning and Building Director to provide annual reports to the Board of Supervisors by the end of the calendar year in 2022 and continuing through 2026 assessing the effectiveness of the program in achieving the goals of the program and providing recommendations for increasing the program's effectiveness.

**SOURCE OF FUNDING:**

Department of Cannabis Control, Grant Funding

DISCUSSION:

This item has two parts: 1) applying for state funding through a new Local Jurisdiction Assistance Grant Program, and 2) approving guidelines for two new grant/loan programs administered by the Planning and Building Department to help local commercial cannabis applicants transition from (temporary) provisional cultivation licenses to (permanent) annual cultivation licenses.

*DCC Grant Program Application*

As described in Attachment 3, this state grant program will provide one-time funding to select local jurisdictions using a formula described in the Budget Act of 2021 to help transition provisional commercial cannabis licenses to annual licenses. Of the \$100 million available statewide, \$18,635,147 is targeted for Humboldt County. Most of that amount (\$10,792,162) was allocated because of the county's established Local Equity Program. Together these funds are intended to aid provisional licensees who are legacy and equity applicants and are more likely to have mitigation measures related to environmental compliance.

According to the draft DCC guidance in Attachment 3, applications for the DCC Grant Program will be accepted between Oct. 8, 2021 and Nov. 15, 2021. Award notification is scheduled for December 2021, and the funds must be fully spent by March 31, 2025. Before receiving the grant award, the county will be required to enter into an agreement with the terms and conditions relevant to the receipt and use of grant funding.

As described in Attachment 1, three distinct uses of the \$18,635,147 in funds are proposed. They are summarized below in priority order and described in more detail later in this staff report:

1. *Hydrologic Assessment of Watersheds:* \$3,100,000 of the State Grant Program are proposed to commission a hydrological study (or studies) to identify the baseline groundwater supply for each of the 12 watersheds in the county, an average of \$250,000 for each watershed. The study would accomplish all the following goals:
  - a. Inform how deep the wells being used for cannabis cultivation "should be"
  - b. Inform potential/actual impacts of already approved permits/licenses
  - c. Inform potential impacts of pending permit and licensing
  - d. Develop a baseline for continued assessment of environmental decisions related to hydrology
2. *Stream Protection Program:* Up to \$12,300,000 is proposed to be used for a competitive loan/grant program for commercial cannabis licensees to fund transition of water use from surface diversions and hydrologically connected wells during the low-flow periods of the year by increasing rainwater catchment, forbearance, and water conservation. A primary goal of the program is to increase water storage to achieve 75% of licensee's commercial cannabis cultivation water budget consistent with State Water Resources Control Board requirements.

The loan side of the program would offer 3% simple interest loans, fully deferred for 10 years.

All loans will be secured with a deed of trust on real property. There is proposed to be no cap to the amount that can be loaned to individual licensees.

The grant side of the program is proposed to include a 1:1 cost share, with the licensees providing the matching funds. A grant of up to \$40,000 per license would be available.

3. *Renewable Energy Program:* Up to \$3,100,000 is proposed to implement a competitive loan/grant program for commercial cannabis provisional licensees to fund replacement of gas/diesel-powered generators used for cultivation with renewable energy systems consistent with the 2023 state transition requirements. In addition to assisting provisional licensees, this program will also help some annual license holders subject to the 2023 state transition requirements to maintain their annual licenses.

The loan side of the program would offer 3% simple interest loans, fully deferred for 10 years. All loans will be secured with a deed of trust on real property. There is proposed to be no cap to the amount that can be loaned to individual licensees.

The grant side of the program is proposed to include a 1:1 cost share, with the licensees providing the matching funds. A grant of up to \$20,000 would be available per license.

The DCC Grant Program application will be written to retain as much as possible the ability to shift funds from one program to another and to modify the approaches depending on actual versus expected costs and response from applicants within the run-rules of the grant.

Since the DCC Grant Program would benefit many local provisional license holders' transition to annual licenses, staff recommends the Board authorize the Planning Director to submit an application as described in Attachment 1.

#### *Guidelines for the Proposed Environmental Compliance and Equity Grant Programs*

The proposed guidelines for the two loan/grant programs described above are presented in Attachment 2. They propose funding for licensees in both a loan and grant format to maximize the flexible use of the funds to best meet the needs of licensees. Provisional licensees without matching funds available may be better served by loans, whereas those without equity in their property may be better served by grants. The loan programs have the co-benefit of recirculating the funds back into the cannabis program when they are paid off, and there are not the same limitations on what those re-use funds can be used for. For instance, they do not have to be used to transition provisional licensees to annual licensees. A re-use plan for these funds is included in Attachment 2.

The proposed guidelines describe the procedure for submittal, review and approval of the projects. A notice of funding availability will be published in the first week of April, and applications for grants will accepted by the Planning Department until May 31 of each year of the 4-year program beginning in 2022. Applications will be evaluated for completeness using a checklist, and complete applications will be referred to the appropriate agencies for comment.

There will be opportunity in this stage of review for the proposals to be modified based on comments from the reviewing agencies to make them more competitive by improving their effectiveness in meeting the program goals.

As explained in the Program Guidelines, proposals will be evaluated for alignment with the program goals using objective criteria. Eligibility is tied to completion of other compliance items, such as confirming all state license applications are active and in good standing, registration with the Water Resources Control Board is current, and necessary applications with the California Department of Fish and Wildlife are current.

Planning staff will bring recommendations for funding to the Board by the end of September each year. Funds not spent in any given year will be made available for projects in the subsequent year. Monitoring implementation and completion of the projects will be performed by county staff knowledgeable in the cannabis program requirements and the grant program goals. Release of the final 20% of the funds for each project will be withheld pending verification of the completion of the projects to the satisfaction of the Planning Director in consultation with permitting agencies based on the report from county staff and other factual evidence.

The intent of the evaluation criteria and performance indicators in the program guidelines is to demonstrate the transition from provisional to annual state licenses, with particular emphasis on water related impacts. It is not a local relief fund for all things negatively impacting cannabis farmers.

The proposed guidelines are written to use all the funding in meaningful chunks to get provisional licensees across the line to an annual license. They attempt to avoid a “peanut butter spread” approach that helps a lot of people get closer, but doesn’t actually push anyone across the need-line

#### *Modifications to the Project Trellis Grant Program*

The Project Trellis grant program administered by the County Administrative Office - Economic Development Division has in the past overlapped with some of the proposed new grant programs. For example, the Project Trellis program recently made grants for water storage tanks to cannabis farmers to help transition their cannabis irrigation systems away from surface diversion of streams.

While there were good reasons to approve funding for these types of applications under Project Trellis, that program has a different purpose, one that is more related to the economic development of the cannabis industry rather than assisting applicants meet their conditions of approval for cannabis permits. To better align the Project Trellis program with its mission and to avoid duplication with the goals of the DCC Grant Program, the Economic Development Division will be bringing forward as a separate item proposing modifications to Project Trellis.

#### *Public Comment*

The Economic Development Division held a community meeting via Zoom on Oct. 8, 2021 where

staff described the proposed program, answered questions, and accepted public comment, which is in Attachment 4. Participants expressed many ideas how the program should be designed, concern about the proposed 1:1 matching, support for retroactive payments and workshops for assistance with the local grant application. Also, they commented that Project Trellis should give more business support. There was concern for the Planning and Building Department handling this grant and wishes for extreme transparency. Included in the recommendations is an annual report to the Board of Supervisors to provide transparency and oversight.

Several commenters also questioned the fairness of focusing the program benefits on cultivators with provisional licenses, leaving out many cultivators who have already made the investments and sacrifices to receive annual licenses. The Alternatives section of this staff report discusses some options for the Board to consider in response to the public comments received so far.

### *Environmental Review*

This project is exempt from environmental review under the California Environmental Quality Act (CEQA) pursuant to Section 15308. Actions by Regulatory Agencies for Protection of the Environment, which applies to actions taken by regulatory agencies, as authorized by state or local ordinance, to assure the maintenance, restoration, enhancement, or protection of the environment where the regulatory process involves procedures for protection of the environment.

### FINANCIAL IMPACT:

This Board report would authorize the Planning & Building Department to apply for \$18,635,147 in state grant funding from DCC and authorize the Auditor-Controller to establish a fund and budget unit needed to operationalize the funding, once received. The county's Environmental Compliance and Equity Grant Program will be entirely funded by the DCC's Local Jurisdiction Assistance Grant Program. This non-competitive grant program will award \$18,635,147 to the County of Humboldt. A supplemental budget to consider adding an Administrative Analyst position to administer the programs will follow upon award of the grant.

Staff costs and other expenses related to preparation and review of this agenda item total approximately \$3,000. The salary funding for preparing this staff report is included in the General Fund contribution to the Advanced Planning budget unit, 1100-282.

### STRATEGIC FRAMEWORK:

This action supports your Board's Strategic Framework by facilitating public/private partnerships to solve problems.

### OTHER AGENCY INVOLVEMENT:

Economic Development, Auditor-Controller, County Counsel, Division of Environmental Health, California Department of Fish and Wildlife and the Regional Water Quality Control Board, State Water Resources Control Board

### ALTERNATIVES TO STAFF RECOMMENDATIONS:

The Board may amend the DCC Program Application and / or the proposed program guidelines at its

discretion. The DCC Grant Program identifies other potential uses of the funds. For instance, the funding could be directed toward assisting provisional licensees to complete the technical studies needed to complete the environmental document needed for approval of an annual license. Also, the funds could be used in a way that leverages the recently approved water quality grant program to reduce sediment delivery into streams.

Public comment during the 10/8/21 Community Meeting expressed concern about the executability of price matching with licensees currently lacking liquid assets due to market conditions. To address these concerns, the Board may want to consider alternate approaches for the program guidelines that include allowances for tiering of matching dollars rather than a straight 1:1 ratio so applicants in the greatest need have less than a 1:1 match required.

Deferment of the match requirement is also an option to increase participation. For instance, the grant program guidelines could be written to specify most of the grant funding for licensees can be made available without a match, and the 1:1 match requirement would be met at the final distribution of the grant funds. Or the Board could eliminate the match requirement altogether for certain types of high-value applications. This particular state grant program has a broad range of flexibility, so the Board has options for matching requirements and other aspects to the local program guidelines.

Because the loan programs recirculate funds back into the cannabis program when they are paid off, and there are few limitations on the re-use of those funds, the re-use program is one way the Board can help address fairness concerns raised at the community meeting by targeting those program benefits toward cultivators with annual licenses.

#### ATTACHMENTS:

1. Resolution No. \_\_\_\_\_ making findings submittal of the DCC Program Application is exempt from environmental review pursuant to CEQA and authorizing the Planning Director to submit the DCC grant application. 2. Resolution No. \_\_\_\_\_ approving guidelines for the local loan and grant programs. 3. DCC Local Assistance Program Guidelines 4. Public Comment

#### PREVIOUS ACTION/REFERRAL:

Board Order No.: [Click or tap here to enter text.](#)

Meeting of: [Click or tap here to enter text.](#)