



BOARD OF SUPERVISORS
AGENDA LETTER

Agenda Number:

Clerk of the Board of Supervisors
105 E. Anapamu Street, Suite 407
Santa Barbara, CA 93101
(805) 568-2240

Department Name: County Executive Office
Department No.: 012
For Agenda Of: August 22, 2023
August 29, 2023
Placement: August 22, 2023
Departmental
August 29, 2023
Administrative
Estimated Time: 45 min
Continued Item: No
If Yes, date from:
Vote Required: Majority

TO: Board of Supervisors
FROM: Department: Mona Miyasato, County Executive Officer
Director(s)
Contact Info: Nancy Anderson, Chief Assistant County Executive Officer
Brittany Odermann, Deputy County Executive Officer
SUBJECT: Amendments to the Cannabis Business Licensing Fee Ordinance

County Counsel Concurrence

As to form: Yes

Auditor-Controller Concurrence

As to form: Yes

Recommended Actions:

That the Board of Supervisors:

- a) Consider the introduction (First Reading) of an Ordinance of the Board of Supervisors of the County of Santa Barbara amending Ordinance 5181, "An Ordinance Establishing the Cannabis Business License Fee" (Attachment A);
- b) Read the title and waive further reading of the Ordinance in full;
- c) Set a hearing on the Administrative Agenda of August 29, 2023 to consider recommendations, as follows:

On August 29, 2023:

- a) Consider adoption (Second Reading) of an Ordinance of the Board of Supervisors of the County of Santa Barbara amending Ordinance No. 5181, "An Ordinance Establishing the Cannabis Business License Fee" (Attachment A); and
- b) Determine for the purposes of CEQA that:

- i. Pursuant to CEQA Guidelines section 15168(c), these actions are within the scope of the Cannabis Land Use Ordinance and Licensing Program, and the Cannabis Land Use Ordinance and Licensing Program Final Programmatic Environmental Impact Report (PEIR) (17EIR-00000-00003, State Clearinghouse No. 2017071016) adequately describes this activity for the purposes of CEQA.
- ii. Pursuant to CEQA Guidelines section 15162(a), after considering the PEIR certified by the Board of Supervisors on February 6, 2018, that no subsequent EIR or Negative Declaration is required because: i) no substantial changes are proposed which require major revisions of the PEIR due to the involvement of new significant environmental impacts or a substantial increase in the severity of previously identified significant effects; ii) no substantial changes have occurred with respect to the circumstances under which the ordinance is undertaken which require major revisions of the PEIR due to the involvement of new significant environmental impacts or a substantial increase in the severity of previously identified significant effects; and iii) no new information of substantial importance concerning the ordinance's significant effects or mitigation measures, which was not known and could not have been known with the exercise of reasonable diligence at the time that the PEIR was certified, has been received that shows any of the elements of CEQA Guidelines Section 15162(a)(3) apply.

Summary Text:

In May 2018, the Board adopted Ordinance No. 5041 of the Santa Barbara County Code, “An Ordinance Establishing the Cannabis Business Licensing Fee.” Cannabis business license fees are currently collected for initial applications, annual renewals, and compliance activities. Since adoption in 2018, these fees were adjusted in January 2022 and in May 2023 to reflect changes in salaries and benefits; adjust Indirect Cost Rate Proposals (ICRP), as approved by the Auditor-Controller, for each department; add County Fire and the Carpinteria-Summerland Fire District to the reimbursement rate structure; and secure full-cost recovery for the two cannabis business license specialists assigned to the initial license review, renewals, and compliance. The objective of this proposed amendment is to add fees for the cannabis licensing program to recover the County's cost for the use of the California Cannabis Authority's (CCA) data analytics platform ‘the Platform’. The data provided by the CCA is necessary for regulatory compliance efforts. The data is “real time”, so that County departments have up-to-date information available when performing compliance checks and making enforcement decisions. The proposed 3% fee that is estimated to generate \$280,000 will apply to all State cannabis license holders in the County.

Background:

In May 2018, the Board adopted an ordinance adding Chapter 50 – Licensing Commercial Cannabis Operations which details the requirements for commercial cannabis operators to be licensed in the County. This ordinance also established a Cannabis Business Licensing Team consisting of multiple county departments and detailed the specific review responsibilities of each licensing team department pertaining to the review of initial cannabis business license applications, compliance associated with post-license issuance, and renewal applications. Chapter 50 provides each licensing team department the authority to recommend to the County Executive Office whether or not to approve the issuance of a cannabis business license.

These fees were most recently updated in May 2023 to adjust Indirect Cost Rates and secure full-cost recovery for the two cannabis business license specialists assigned to the initial license review, renewals,

and compliance. At the May 16th Board hearing, staff received direction to return with an amendment that would include fees for the cannabis licensing program to recover cost for the use of the California Cannabis Authority's (CCA) data analytics platform 'the Platform' for fiscal year 2023-24.

In September 2021 the Board approved executing a Joint Exercise of Powers Agreement with the CCA. Initially, the cost for Santa Barbara County to join CCA as a member with data platform access was \$500,000 annually. The County had no other options to access the State's data in useable form to assist with compliance. For FY 2023-24 staff has negotiated a lower CCA fee pointing to a significant drop in cannabis revenues to the county and thus fewer data points to analyze. The annual membership assessment and fee is estimated to be approximately \$280,000. The fee to CCA will now be based on a calculation of three percent (3%) of the value of the State fee charged for renewing, active State cannabis licenses held in the County. Heretofore, the CCA calculated the fee based on their estimation of what the volume of transactions analyzed would be for the current fiscal year. The CCA costs will be passed through to active cannabis businesses by applying the fixed percentage (3%) to the State fee charged for renewing a State cannabis license as shown in Attachment B.

At the time of CCA membership approval staff was seeking additional information to ensure staff had information to support compliance with permit and business licensing requirements as well as reconciliation of tax reporting and payment. All state-issued annual and provisional licensees are required to use the California Cannabis Track-and-Trace (CCTT) system, also known as Metrc, to record, track, and maintain information about their cannabis and cannabis-product inventories and activities. Originally, concurrent with the development of Chapter 50, County staff had discussions with the State regarding securing access to the information contained in Metrc for State licenses issued within Santa Barbara County. The State initiated a pilot program and some jurisdictions were given access through approval of a Memorandum of Understanding (MOU). Despite early commitments by the State that the County would be able to participate in the pilot program, negotiations stalled in early 2021 and the County was not granted access to any of this CCTT information. Today, the State is preparing to launch a data sharing program called Metrc Viewer. County staff will gain access and attend trainings to take advantage of the State's offering. Should this access provide the data needed to continue the County's compliance efforts, the County could elect to withdraw from its membership in CCA.

Currently, through membership in the CCA, Santa Barbara County has access to a sophisticated data analytics platform that takes the raw data from the CCTT–Metrc system and packages it into consumable, helpful reports. The membership strengthens the County's ability to monitor and enforce the cannabis regulatory structure by highlighting anomalies in the data reporting that staff can review, use to follow up with operators, and take action as needed.

Proposed Additional Fee Schedule:

The method for allocating the cost of CCA's data analytics platform among County cannabis businesses is to apply a fixed percentage to the State fee charged for renewing a State cannabis business license. Operators with active state licenses at the beginning of each quarter will be billed the fixed percentage applied to state license fees by type. An "active" cannabis license is a cannabis license identified at the start of each quarter as "active" by the State or which is reporting transactions to Metrc (and therefore analyzed by the Platform) regardless of license status.

This method bears a reasonable relationship to the County's cost of the regulatory activity as both the State fee and the CCA Platform charge are determined based on the relative size of the licensee.

The proposed 3% fee is summarized in Attachment B. This method will apply to all State cannabis license holders in the County.

Fiscal and Facilities Impacts:

Budgeted: Yes Cost for the use of the CCA data analytics platform is included in the FY 2023-24 budget.

Fiscal Analysis:

<u>Funding Sources</u>	<u>Current FY Cost:</u>	<u>Annualized On-going Cost*:</u>	<u>Total One-Time Project Cost</u>
General Fund			
State			
Federal			
Fees		\$ 280,000.00	\$ -
Other			
Total	\$ -	\$ 280,000.00	\$ -

*Estimated cost calculated using the fixed percentage and current list of active State license holders in the County.

Special Instructions: Publish the Notice of Public Hearing 5 and 10 days before the hearing date in the *Santa Barbara Independent* and the *Santa Maria Times* in accordance with Government Code sections 66018(a) and 6062a. After the Ordinance is passed publish a summary of the ordinance in the *Santa Barbara Independent* and the *Santa Maria Times* within 15 days of the adoption of the ordinance in accordance with Government Code section 25124.

Attachments:

- Attachment A - Cannabis Business Licensing Fee Ordinance Amendment
- Attachment B - CCA Data Platform Fees
- Attachment C - Cannabis Business License Fee Schedules (current)

Authored by:

Brittany Odermann, Deputy County Executive Officer, x83409