

California Counties Preparing for Cannabis System Overhaul



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David Smith
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The Siskiyou County Board of Supervisors – and a packed house of Siskiyou citizens – received a crash course Tuesday on California’s recent legislative overhaul of the medicinal marijuana system.

Helmed by Paul Smith of the organization Rural County Representatives of California, the presentation focused on a trio of bills signed into law this year.

Assembly bills 243 and 266, along with Senate Bill 643, combined to create a new regulatory scheme for the cultivation, manufacture, sale and distribution of medicinal cannabis.

While he said that the bills represent a comprehensive and at times complex set of rules, Smith laid out for the board a set of guiding principles RCRC took to the table when the bills were being formed.

Those principles included preserving local control, providing explicit taxation authority at the local level, ending the collective model of cultivation and addressing environmental impacts, each of which were addressed to some extent, Smith said.

On the issue of local control, he said that the new framework preserves county and city powers with respect to land use decisions and the ability to decide whether and to what extent medical marijuana cultivation is allowed in a certain jurisdiction.

According to Smith, RCRC sought explicit taxation authority in order to give counties the option of taxing the medical marijuana industry while avoiding lengthy lawsuits that might occur without explicit statutory authority.

Responding to a question from the board, he said that the authorization does not change the method by which taxes are instituted; tax measures would still require voter approval as before.

The new scheme does away with cannabis collectives, Smith said, and will instead institute a state licensing scheme in order to regulate the commercial market.

The collective model allowed a group of one or more patients or caregivers to pool resources, allowing for the transfer of product among themselves.

While RCRC wanted the licensing scheme to extend to all marijuana cultivators, the bills were passed with an exemption for those growing only to fill their own medical needs or for those providing caregiving services.

He explained that there is currently language allowing counties to still add tighter restrictions on personal medicinal use, but he expects that incoming legislation may remove that clause, based on discussions leading up to the bills' passage.

The way the scheme will work, Smith said, is that commercial growers will have to perform all requisite actions at the county level, and then pursue a license through the state.

A large array of topics incidental to the commercial operation are also touched upon by the bills, he explained, from the delivery of cannabis to consumers to the transport of product between licensed owners.

With respect to deliveries, Smith said that individual local governments may decide to ban them, but county governments cannot interfere with deliveries between two jurisdictions where they are legal, if the delivery route passes through unincorporated land.

He said that RCRC argued that the rules would be unfair to law enforcement officers who may or may not be aware of each jurisdiction's rules, but that the argument was unsuccessful.

On the topic of environmental impacts, Smith said that there are guidelines regarding conservation standards and water diversions, as well as mention of pesticides, but he believes the main issue is that there was not a large funding stream dedicated to enforcement.

He added that a number of issues are likely to go through iterations in the near future, as the state determines how it will handle the banking needs of licensees, as well as how it will regulate certain pesticides, with both issues hinging on the interaction

between the federal government's ban on marijuana use and states' more permissive laws.

With banking, Smith said, issues arise where banks are barred from pushing funds raised through marijuana transactions into the federal reserve system, making state marijuana economies strictly cash based and harder for the state to track.

One proposed bill, Assembly Bill 1549, takes aim at resolving the banking issue, while another, Assembly Bill 1548, proposes a tax scheme for cultivation.

In addition to proposing specific tax amounts for the cultivation of certain products, the bill, if approved, would also determine where the proceeds go. According to Smith, 35 percent of the revenue would support enforcement efforts on illegal grows, 35 percent for environmental clean-up and the remainder for addressing environmental impacts.

While the bills attempt to settle the matter of medicinal cannabis in California, Smith said that a significant potential change on the horizon is the possible passage of a marijuana legalization ballot initiative in 2016.

He noted that of the initiatives put forward thus far, he believes only one – backed by technology billionaire Sean Parker – will have the support and financial clout to make it to the November ballot.

According to Smith, the “Parker initiative” fairly closely mirrors the regulatory scheme set up by the three bills.

He said that he believes the initiative has a good chance of passing next year, and that the state would be wise to continue to tailor its regulatory scheme with the possibility of legal recreational use in mind.

The county currently has its own ordinance regulating the cultivation of medicinal cannabis, and the board of supervisors considered potential changes on Tuesday afternoon.

The Siskiyou Daily News will feature an article on that portion of the meeting on Thursday.

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