

September 16, 2020 • CA IHAB Meeting

3. Brief update on proposed state legislation for industrial hemp

I. AB 2028

A. Brought together:

1. Food and Ag. Code amendments to hemp program
2. Former AB 228
 - a. Hemp manufacturing under CA Dept of Public Health (CDPH)

B. Pandemic resulted in truncated session

1. Combined legislation not taken up until too late in session (mid-August)
2. Session ended August 31
3. Died in Senate
 - a. Timing rules not waived
 - b. Same result as numerous other bills
4. Thanks go out to CDFA and authors Aguiar-Curry and Wilk for their support

C. Food and Ag. Code proposed amendments

1. Alignment with US Dept of Ag Interim Final Rule
 - a. Measurement of uncertainty – lab testing
 - b. Farmer reporting to Farm Service Agency of data (location, acreage, etc.)
2. Commissioner inspection and enforcement authority
3. Other technical amendments

D. Hemp Manufacturing Program

1. CBD/Hemp extract not an adulterant or prohibited (CDPH 7/18 FAQ)
 - a. Allowed in food, beverages, dietary supplements, cosmetics and pet food
2. Consumer safety paramount
3. Economic boon: greatest growth opportunity in largest US economy/pop.
4. CDPH – regulatory oversight (extension of FDA in CA) under the Sherman Act
 - a. Essentially negotiating with FDA
 - i. Would have effectively set a national standard
 - b. Food processing facility licenses
 - c. Labeling standards on par with other states
 - d. Same testing as cannabis
 - i. But not same protocols or labs required
 - e. Finished products below 0.3% THC
 - f. Rulemaking for:
 - i. Any age limits
 - ii. Serving size caps
 - iii. In process extract THC limits

E. Authors committed to reintroducing next year

1. More time to refine and negotiate; and to
2. Work on smokable hemp product regulatory structure

Industrial Hemp Program Revenue Summary

Fiscal Year	Registration Fee Collected
2018/2019	\$ 259,200
2019/2020	\$ 576,000
2020/2021	\$ 141,300
Total	\$ 976,500

Industrial Hemp Program Budget Summary

	PPPPY FY 2016/17 As of 9/1/20	PPPY FY 2017/18 As of 9/1/20	PPY FY 2018/19 As of 9/1/20	PY FY 2019/20 As of 9/1/20	*CY FY 2020/21 Projection
Staff Salary	12,363	58,550	155,609	414,367	440,964
Staff Benefits	6,156	29,998	52,054	181,151	233,783
TOTAL PERSONAL SERVICES	18,519	88,548	207,663	595,518	674,747
General Expenses	0	663	546	4,722	500
Printing	0	0	0	0	600
Communications	0	0	80	33	500
Postage	0	14	74	298	250
Insurance	0	0	0	1	75
Travel: In-State	2,283	8,678	9,701	3,733	2,000
Travel: Out-State	0	1,976	4,773	0	0
Training	0	0	420	650	0
Facilities	0	0	5,571	20,528	21,000
Cons/Profs	0	0	634	0	500
External Services	0	0	85	0	0
Attorney General	0	0	0	11,429	1,000
Intradepartmental Charges	0	7,565	28,130	23,961	26,370
Indirect Costs - Exec/Admin					
Indirect Costs - Division					
Indirect Costs - IT					
Pro Rata & SB 84	0	0	1,661	13,989	68,561
Information Technology	0	12	254	1,264	0
Equipment	0	0	0	0	0
Auto Inspection	0	0	0	0	0
Field/Agricultural Supplies	0	0	0	0	100
Other Misc. Charges	0	0	0	0	0
Subtotal Oper Exp/Equip	2,283	18,907	51,928	80,608	121,456
County Agreements	0	0	190,898	1,454,485	1,016,425
TOTAL OPER EXP/EQUIP	2,283	18,907	242,826	1,535,094	1,137,881
Reimbursement 224c - Admin	0	0	-497	-24,766	0
TOTAL COST RECOVERY	0	0	-497	-24,766	0
TOTAL BUDGET w/ PERSONNEL & BENEFITS	20,802	107,455	449,992	2,105,845	1,812,628

Industrial Hemp Program Fund Condition

	PPPPY 2016/17 Actual	PPPY 2017/18 Actual	PPY 2018/19 Actual	PY 2019/20 Actual	CY FY 2020/21 Projection	Projection for 2021/22	Projection for 2022/23
BEGINNING RESERVE BALANCE	0	(\$20,802)	(\$128,257)	(\$319,049)	(\$1,849,126)	(\$3,121,753)	(\$4,361,796)
REVENUE CATEGORIES							
Registration Fees	0	0	259,200	576,000	540,000	660,000	660,000
Interest & Miscellaneous Income	0	0	0	(232)	0	0	0
TOTAL REVENUE	\$0	\$0	\$259,200	\$575,768	\$540,000	\$660,000	\$660,000
EXPENDITURES							
Personnel Services	18,519	88,548	207,663	595,518	674,747	762,161	843,603
Operating Exp & Equipment	2,283	18,907	51,928	80,608	121,456	121,456	121,456
County Agreements	0	0	190,898	1,454,485	1,016,425	1,016,425	1,016,425
COST RECOVERY							
Reimbursement 224c - Admin	0	0	(497)	(24,766)	0	0	0
TOTAL EXPENDITURES	\$20,802	\$107,455	\$449,992	\$2,105,845	\$1,812,628	\$1,900,042	\$1,981,484
ENDING RESERVE BALANCE	(\$20,802)	(\$128,257)	(\$319,049)	(\$1,849,126)	(\$3,121,753)	(\$4,361,796)	(\$5,683,280)

**CDFA INDUSTRIAL HEMP
ADVISORY BOARD**

**REGISTRATION FEE
AMENDMENT TASK FORCE**

WHY ARE WE OPERATING IN A DEFICIT?

- PLAIN AND SIMPLE WE ARE NOT GATHERING ENOUGH REVENUE THROUGH REGISTRATION FEES TO COVER ACTUAL PROGRAM COSTS!
- THE PROGRAM IS ESTIMATED TO BE IN A DEFICIT OF \$3,121,753 BY THE END OF FY 2020/2021!
- \$576,000 WAS COLLECTED THROUGH REGISTRATION FEES IN FY 2019/2020.
- ESTIMATED TOTAL COSTS FOR FY 2020/2021 IS \$1,812,628.
 - CDFA OPERATING COSTS - \$796,203.
 - COUNTY AGREEMENTS - \$1,016,425.

HOW MUCH DID WE SPEND PER REGISTRATION IN FY 2019/2020?

- 636 REGISTRATIONS
- TOTAL PROGRAM COST - \$2,105,845
- TOTAL COST PER REGISTRATION - \$3,311

HOW DO WE COMPARE TO OTHER HEMP PROGRAMS?

State	Fee Structure	2019 Registration	Fees Collected	Revenue	Expenditures
California	Registration Fee	\$900.00 Number of Registrations	636	\$576,000	\$2,105,845
	Application Fee	\$500.00 Number of Registrations	2,634	\$1,317,000	
Colorado	Outdoor Grow Fee (per acre)	\$5.00 Number of Registered Outdoor Grow	88,743	\$443,715	\$1,806,915
	Indoor Grow Fee (per sq ft)	\$0.0030 Number of Registered Indoor Grow	15,400,000	\$46,200	
Nevada	Grower Application Fee	\$500.00 Number of Growers	216	\$108,000	\$186,262
	Seed Producer Application Fee	\$100.00 Number of Seed Producers	47	\$4,700	
	Outdoor Grow Fee (per acre)	\$5.00 Number of Registered Outdoor Grow	14,584	\$72,920	
Oregon*	Indoor Grow Fee (per sq ft)	\$0.00033 Number of Registered Indoor Grow	1,944,492	\$642	\$2,655,925
	Grower Registration Fee	\$1,300.00 Number of Growers	1,961	\$2,549,300	
Oregon**	Ag Hemp Seed Registration Fee	\$125.00 Number of Grow Site	853	\$106,625	\$2,125,608
	Grower Registration Fee	\$250.00 Number of Growers**	1,646	\$411,500	
Oregon**	Grow Site Fee	\$500.00 Number of Grow Site**	1,891	\$945,500	Unknown
	Agricultural Hemp Seed Registration Fee	\$500.00 Number of Seed Producer**	195	\$97,500	

*Fee Structure was applicable until December 2019.

** Fee structure has been operative since January 2020, the number of growers/producer are from 2020 Registration.

WHAT ARE OUR OPTIONS FOR AMENDING THE REGISTRATION FEE?

- 1.) REGISTRATION FEE INCREASE (FROM \$1,200 TO \$5,000)
 - THIS WILL RESULT IN A BUDGET SURPLUS BY THE END OF FY 2024/2025.
- 2.) GROSS REVENUE FEE STRUCTURE
 - MAY WORK BUT WE DO NOT HAVE ENOUGH DATA TO PROPOSE THIS
- 3.) ACREAGE FEE (\$145)
 - THIS WILL RESULT IN A BUDGET SURPLUS BY THE END OF FY 2024/2025.
- 4.) REGISTRATION AMENDMENT FEE (\$75 PER AMENDMENT)
 - AN AVERAGE OF 3 AMENDMENTS PER REGISTRANT

WHAT DO WE PROPOSE?

FEE	RATE	ESTIMATED REVENUE
REGISTRATION	\$1,200 PER REGISTRATION	\$660,000 FOR 550 REGISTRATIONS
ACREAGE	\$115 PER ACRE	\$2,012,500 FOR 17,500 ACRES IN FY 2021/22 20,000 ACRES AFTER FY 2021/22
REGISTRATION AMENDMENT	\$75 PER AMENDMENT (EXCEPT FOR AMENDMENTS TO CHANGE CONTACT INFORMATION)	\$61,785 FOR 825 AMENDMENTS (APPROX. 1.5 AMENDMENTS PER REGISTRANT)
TOTAL		\$2,471,875 IN FY 2021/22 \$2,721,875 AFTER FY 2021/22

WHEN WILL THE PROGRAM HAVE A SURPLUS?

	Projection for FY 2020/21	Projection for 2021/22	Projection for 2022/23	Projection for 2023/24	Projection for 2024/25	Projection for 2025/26
BEGINNING RESERVE BALANCE	(\$1,849,126)	(\$3,121,753)	(\$2,549,921)	(\$1,809,530)	(\$1,026,848)	(\$244,166)
REVENUE CATEGORIES						
Registration Fees	540,000	660,000	660,000	660,000	660,000	660,000
Acreage Fees	0	1,750,000	2,000,000	2,000,000	2,000,000	2,000,000
Amendment Fees	0	61,875	61,875	61,875	61,875	61,875
Interest & Miscellaneous Income	0	0	0	0	0	0
TOTAL REVENUE	\$540,000	\$2,471,875	\$2,721,875	\$2,721,875	\$2,721,875	\$2,721,875
EXPENDITURES						
Personnel Services	674,747	762,161	843,603	801,312	801,312	801,312
Operating Exp & Equipment	121,456	121,456	121,456	121,456	121,456	121,456
County Agreements	1,016,425	1,016,425	1,016,425	1,016,425	1,016,425	1,016,425
COST RECOVERY						
Reimbursement 224c Admin	0	0	0	0	0	0
TOTAL EXPENDITURES	\$1,812,628	\$1,900,042	\$1,981,484	\$1,939,193	\$1,939,193	\$1,939,193
ENDING RESERVE BALANCE	(\$3,121,753)	(\$2,549,921)	(\$1,809,530)	(\$1,026,848)	(\$244,166)	\$538,516

WHAT DO WE DO TO MAKE THIS MORE EQUITABLE?

- GROSS REVENUE FEE STRUCTURE MAY WORK BUT WE DO NOT HAVE ENOUGH DATA
 - GATHER GROSS REVENUE DATA AT REGISTRATION
 - SET A BASE APPLICATION FEE PLUS GROSS REVENUE FEE
- SUGGESTIONS TO REDUCE PROGRAM EXPENDITURES
- REEVALUATE THE FEE STRUCTURE YEARLY AS THE MARKET EVOLVES

September 15, 2020

I would like you to inform the people at the hemp meeting about what happened in Lake County.

-In one situation, a state registered hemp grower maintained that he was growing hemp until it was time for the pre-harvest. Then he said it was cannabis and the county had no authority to take samples at that time. The sample were taken anyway and it was confirmed that it was cannabis based on the THC results. He used this ruse to keep the CDFW, County Code Enforcement and use off the property until that time. He also said that someone from his organization was supposed to take it off the State Registration, but it never happened. By the time the sample results came back, the crop was already harvested and off the property, on to the black market.

-in this situation, the state registered hemp grower was harvesting a mature crop without letting the county know in advance. There was no pre-harvest sampling and no harvest notification. The county observed this at random. The Ag Commissioner involved the Sheriff, Code Enforcement and CDFW in stopping the harvest at about 80% completed. The grower was hiding in his office and refused to come out. Samples were taken of the 20% of the plants that were still in the ground and of the 80% of the crop in the barn. The grower was told to NOT harvest the remaining crop in the field until the results came back. 7 days later, the results came back as 9% THC, but the sample results didn't matter because the grower wasn't present (legal requirement) during the sampling of the live plants in the field (because he was hiding in his office) and the samples from the plants in the barn were not legal because there was no official state sampling protocol for cut hemp plants. He ended up harvesting the remaining 20% and sold all of it on the black market by the time we got the sample results. There was a crop destruction order where he switched the cut cannabis plants that were just harvested with last season's unsold hemp crop (which he said was this year's crop).

Contact me if you need any further clarification.

Steve Hajik
Lake County Agricultural Commissioner & Sealer