

# City of Sacramento

## Legislation Text

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**File #:** 2019-00077, **Version:** 1

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**Title:**  
**Revised Cannabis Staffing Plan**

File ID: 2019-00077

**Location:** Citywide

**Recommendation:**

Adopt a Resolution authorizing the City Manager or City Manager's Designee to: 1) approve the revised staffing plan for the City's cannabis program as shown in the attached resolution adding a net of 4.0 Full Time Equivalent (FTE) positions across four departments; 2) increase expenditure budget by \$10,000 for the Office of Cannabis Policy and Enforcement for services and supplies; 3) increase expenditure budget by \$47,500 for the Cannabis Policy and Enforcement Project (I06420000) for services and supplies; and 4) adjust the Fiscal Year 2018/19 operating revenue for Community Development and the expenditure budget in I06420000 by the amount equal to Housing and Dangerous Building fines, fees, and penalties collected in association with cannabis properties at year end.

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**Presenter:** Joe Devlin, Chief of Cannabis Policy and Enforcement, (916) 808-4772, Office of the City Manager

**Attachments:**

- 1-Description/Analysis
- 2- Business Operating Tax (BOT) summary FY12 through Q2 of FY19
- 3- Revised Staffing Plan
- 4- Resolution

**Description/Analysis**

**Issue Detail:** Over the last three years, the City Council has taken numerous steps towards

regulating cannabis businesses in the City of Sacramento, with an increased urgency in light of commercial cannabis becoming legal in the State of California as of January 1, 2018. Over the same period of time, the City developed robust regulations for the entire commercial cannabis supply chain and complemented those regulations with a sound enforcement policy to address the urgent need to curb illegal residential cultivation in Sacramento's neighborhoods. Below is a brief summary of the actions taken by City Council relating to cannabis in the last three years:

- November 2016, adopted regulations for cultivation;
- April 2017, adopted an ordinance regulating manufacturing and testing laboratories;
- August 2017, adopted an ordinance limiting residential cultivation to six plants and imposing administrative penalties of \$500 per plant in excess of the limit;
- November 2017, established regulations for delivery and distribution, amended the manufacturing ordinance to add a tiered permitting structure, and adopted an ordinance allowing permitted dispensaries to sell adult-use cannabis and add delivery to their operations;
- August 2018, reconfigured the distribution permit types by adding a tiered permitting structure and creating a "transport-only" distribution type; and
- August 2018, adopted the Cannabis Opportunities and Reinvestment and Equity (CORE) Program;
- November 2018, adopted regulations for microbusinesses;
- January 2019, adopted regulations for local authorization for special events at Cal Expo

As of January 2019, the City has received over 380 applications for different types of cannabis permits, which includes cultivation, manufacturing, testing, distribution, delivery-only dispensaries and microbusinesses. This number does not include the 30 storefront dispensaries already permitted by the City. A majority of the proposed locations for these applications already have an approved Conditional Use Permit (CUP), a land use entitlement necessary to conduct cannabis activity at a specific location. At least 47 applications have also received their Business Operating Permit (BOP). The remaining applications are in various stages of the approval process, which includes applying for building permits and completing tenant improvements.

In Fiscal Year (FY) 2017/18 which concluded on June 30, 2018, cannabis businesses remitted a total of \$6.4 million in Business Operating Tax (BOT) to the City. As of the close of the second quarter of the current fiscal year (December 31, 2018), BOT payments total \$5,313,558. A summary of BOT payments FY2011/12 through the second quarter of FY2018/19 is attached. (Attachment 2).

As was expected when the most recent staffing plan was approved by Council in November 2017, periodic adjustments to program staffing would be required in order to meet shifting demands resulting from unanticipated challenges from regulating and permitting a new industry in a dual licensing environment. For instance, a recent deadline imposed by the State for applicants to submit a temporary State license created a spike in BOP applications in the last two months of 2018.

Staff time previously estimated to process applications and the volume of work associated with ensuring compliance among operating businesses were under estimated. Similarly, as the Sacramento Police Department's enforcement efforts to curb illegal residential cultivation went into full effect in late 2017, a large volume of administrative work associated with the processing of appeals related to the issuance of administrative penalties was created. Neither of these were anticipated in November 2017 and as such, staff is recommending adjusting the staffing model to reflect current and anticipated regulatory and enforcement workload.

Adjustments are also necessary as applications move from submission and the initial review phase into a mandatory pre-permitting inspections phase. As an example, in the path to a COO, which is the final requirement to obtaining a BOP, the approval process involves a series of plan check cycles concluding with a site inspection with each approval cycle. Likewise, the Fire Department inspects proposed facilities in order to proactively monitor compliance to the new California Fire Code and to ensure that corrective measures, which in some cases include the issuance of stop-work orders for non-complying businesses, are implemented.

The following summarizes the proposed staffing changes due to the issues detailed above. The full staffing plan is included as Attachment 3.

#### **Office of the City Attorney:**

Increased enforcement efforts have led to a high volume of administrative penalties and the associated appeal hearings. These efforts have led to an increase in staff resources defending the administrative penalties in the hearing process; an increase in litigation caseloads; created an increase in staff time needed to prepare and process liens; staff time to research case law and constitutional issues associated with this new industry; training city staff on legal process; support staff time for tracking and reporting back to Council on all administrative penalties. Given the increased workload associated with the City's efforts to curb illegal cultivation the City Attorney's Office requires the addition of 1.0 FTE Senior Deputy City Attorney, 1.0 FTE Paralegal, 1.0 FTE Legal Assistant, and 1.0 FTE Legal Secretary positions. It is expected that penalties related to illegal enforcement efforts will offset the cost of the additional staff.

#### **Community Development Department:**

To help guide applicants through the building permit process, a 1.0 FTE Junior Development Project Manager position is being added and until such time that all permits have been issued and code compliance and enforcement is expected to increase, 2.0 FTE Code Enforcement Officer positions and 1.0 FTE Building Inspector positions are being deleted. This staffing better reflects current workload. In addition, the need for a 1.0 FTE Animal Control Officer did not emerge, therefore the position is being deleted. As an alternative, \$50,000 is being allocated to address any issues that may arise. Finally, non-compliant businesses are subject to Housing and Dangerous Building fines, fees, and penalties and staff recommends that any revenues collected pursuant to cannabis

businesses be transferred to the Cannabis MYOP (I06420000) to offset the cost of the CDD staffing required to monitor these businesses.

**Finance Department:**

Due to the increase in administrative penalties being issued, a 1.0 FTE Customer Service Supervisor is needed to manage both the collection process and associated staff.

**Fire Department:**

Due to an updated Fire Department Fee Study, reimbursements for the 2.0 FTE Fire Prevention Officer positions have been reduced from 60% to 20%.

**Office of Cannabis Policy and Enforcement (OCPE):**

OCPE is responsible for the issuance of BOPs and providing administrative support for the administrative penalty and appeal hearing processes. The addition of 2.0 FTE Customer Service Specialist positions are needed to manage the volume of BOP applications and to provide the necessary administrative support for the appeal hearings being driven by enforcement efforts.

**Policy Considerations:** The recommendations contained in this report are consistent with Council Resolution 2018-0235 requiring the City Council to approve any increase or decrease in FTE positions by department.

**Economic Impacts:** None.

**Environmental Considerations:** This action is not a project subject to CEQA because it involves the establishment, modification, structuring, restructuring, or approval of rates, tolls, fares, or other charges by public agencies which the public agency finds are for the purpose of meeting operating expenses; and because it is an administrative activity that will not result in direct or indirect physical changes in the environment. (Pub. Res. Code §21080; CEQA Guidelines §15378(b)(5).)

**Sustainability:** Not applicable.

**Commission/Committee Action:** Not applicable.

**Rationale for Recommendation:** The recommended action recognizes the need for periodic evaluation and necessary adjustment in staffing and services and supplies in order to meet the demands associated with regulating a new industry. Permit fees are designed to cover cannabis-related positions, including the ones recommended above. The revised staffing plan will address current workload challenges.

**Financial Considerations:** The OCPE operations and staffing in other departments as approved by Council are intended to be fully offset by revenues. The adopted program permit fees for cannabis

were established to cover the cost of implementing the program which includes enforcement and regulation of both legally permitted and illegal cannabis operations. To date, program permit fees have generated \$6.1 million from April 2017 - January 2019. However, because of the gap in the time between permit submission and renewal, a “dry” period is expected over the next two years during which permit revenues will be insufficient to fund the proposed staffing plan. This gap is a result of a number of factors which can include the length of the CUP approval process, obtaining building permits and completing tenant improvements to bring a property up to code. In light of this anticipated “dry” period, when no revenues are anticipated until all permits have been issued and are on a regular annual renewal cycle, Council adopted Resolution 2018-0235 (§ 17.3 (15)) authorizing the use of excess BOT as necessary to cover costs. In addition, Resolution 2018-0235 (§ 17.3 (24)) authorizes fines and administrative penalties collected pursuant to Sacramento City Code section 8.132, relating to the cultivation of cannabis, to support enforcement activities based on actual revenues received. Based on the estimated dry period staff anticipates that FY2018/19 BOT revenues will be needed to close the gap through FY2021/22 when permit revenues are expected to be normalized to cover the annual costs of enforcement.

As committed in prior reports, staffing will continue to be flexible and will be continuously evaluated and adjustments will be requested as the program and workload needs change. The following chart summarizes the proposed changes:

Classification	Department	FTE	Fund	Annual Labor Budget	Services and Supplies Budget
Customer Service Specialist	Office of the City Manager/OCPE	2.00	1001	\$ 151,263	\$ 10,000
Senior Deputy City Attorney	Office of the City Attorney	1.00	1001	\$ 208,532	
Paralegal	Office of the City Attorney	1.00	1001	\$ 105,106	
Legal Secretary	Office of the City Attorney	1.00	1001	\$ 86,783	
Legal Assistant	Office of the City Attorney	1.00	1001	\$ 105,105	
Animal Control Officer	Code Enforcement	(1.00)	1001	\$ (73,444)	
Code Enforcement Officer	Code Enforcement	(2.00)	1001	\$ (184,918)	
Building Inspector	Code Enforcement	(1.00)	1001	\$ (114,464)	
Junior Development Project Manager	Code Enforcement	1.00	1001	\$ 125,940	
Customer Service Supervisor	Finance	1.00	1001	\$ 86,746	
<b>Total FTE Change: 4.00</b>				<b>\$ 496,649</b>	<b>\$ 10,000</b>

Classification	Project	FTE	Fund	Annual Labor Budget	Services and Supplies Budget
	Cannabis Operations MYOP - I06420000		1001		\$ 47,500
		<b>Total Services and Supplies</b>			<b>\$ 47,500</b>

**Local Business Enterprise (LBE):** Not applicable