Subject: Workshop to Discuss Options to Either Ban or Regulate Commercial Cannabis Activities

Department: County Administration

Meeting Date Requested: August 8, 2017

Contact: Casey Hatcher  Phone: 530.538.6182

Regular Agenda [x]  Consent Agenda [ ]

Department Summary: (Information provided in this section will be included on the agenda. Attach explanatory memorandum and other background information as necessary).

Under current State law, the Board of Supervisors has local authority to ban or regulate commercial cannabis activities up to what is allowed by the State for cultivation, manufacturing, testing, distribution, retail sales, and delivery within the unincorporated area of Butte County. The State does not require applicants for a State license to first obtain a local permit or license. Instead, there is a communication process between State agencies and local jurisdictions to ensure only locally approved commercial cannabis activities receive State licenses. The State estimates it will begin issuing licenses on January 1, 2018.

Staff recommends the Board of Supervisors exercise its authority for local control after considering options to either ban or regulate commercial cannabis activities, and providing direction to staff to develop applicable ordinances. Staff will develop an ordinance for any activity the Board of Supervisors desires to ban and bring it to a future Board Meeting for consideration. Any commercial cannabis activities the Board of Supervisors desires to regulate and permit may require discussion at a future Board Meeting to consider regulatory components. After the regulatory considerations are made, staff will develop an ordinance for Board of Supervisors consideration. Staff recommends the Board of Supervisors have applicable ordinances in place by January 1, 2018 when the State begins issuing licenses to commercial cannabis businesses.

Fiscal Impact:
Does not apply.

Personnel Impact:
Does not apply.

Action Requested:
Provide direction to staff.

Administrative Office Review: Shari McCracken, Deputy Chief Administrative Officer
MEMORANDUM

DATE: AUGUST 8, 2017
TO: BUTTE COUNTY BOARD OF SUPERVISORS
FROM: PAUL HAHN, CHIEF ADMINISTRATIVE OFFICER
RE: WORKSHOP TO DISCUSS OPTIONS TO EITHER BAN OR REGULATE COMMERCIAL CANNABIS ACTIVITIES

Summary
Several California laws were passed in the past few years creating the regulatory framework for commercial cannabis activities.

- **2015** - The California Legislature passed a set of bills in 2015 establishing the Medical Cannabis Regulation and Safety Act (MCRSA), which established a regulatory framework for commercial medical cannabis activities.

- **2016** - California voters passed Proposition 64 in 2016, the Adult Use of Marijuana Act (AUMA), which also included a regulatory framework for nonmedical, commonly referred to as adult use, commercial cannabis activities.

- **2017** - Governor Brown approved SB 94 Cannabis: medicinal and adult use on June 27, 2017 creating one system of administration for cannabis laws in California. The bill largely repeals MCRSA and aligns regulations for medical cannabis with those established by AUMA for adult use cannabis.

Under current State law, the Board of Supervisors has local authority to ban or regulate commercial cannabis activities up to what is allowed by the State for cultivation, manufacturing, testing, distribution, retail sales, and delivery within the unincorporated area of Butte County. SB 94 and the AUMA (Proposition 64) do not require applicants for a State license to first obtain a local permit or license. Instead, SB 94 calls for a communication process between State agencies and local jurisdictions to ensure only locally approved commercial cannabis activities receive State licenses. The State estimates licenses will be issued beginning January 1, 2018.

The requirement for a State license to conduct commercial cannabis activities includes exemptions for personal medical and adult use of cannabis. The Board of Supervisors already established local regulations for medical and adult use exemptions, which are set forth in Butte County Code Chapters 34A and 34C, respectively. The workshop to discuss commercial cannabis activities does not include discussion of changes to Chapters 34A and 34C.
Note: the terms marijuana and cannabis are used interchangeably throughout the report. The term marijuana was used for decades, but recent policies use the term cannabis.

Marijuana Policy

Federal Policy
The Controlled Substances Act (CSA) of 1970 established a federal schedule system to classify controlled drugs. Criteria from the CSA are used when determining if a drug is placed on, or removed from, a particular schedule, such as the potential for abuse, evidence of pharmacological effect, patterns of abuse, risk to public health, and dependency. Marijuana is currently classified as a Schedule I narcotic by the CSA. Schedule I classification is reserved for the most dangerous drugs that have high potential for abuse and no clear medical efficacy.

The Department of Justice (DOJ) issued guidance on marijuana enforcement in 2013, referred to as the Cole Memo, after voters in Colorado and Washington passed marijuana legalization initiatives. The Cole Memo outlined eight priorities states should meet in order to receive low-priority status for federal marijuana enforcement. The priorities focus primarily on reducing exposure by minors, reducing crime associated with marijuana, preventing drugged driving, and protecting public lands.

The federal government’s view of marijuana enforcement has changed under the new Administration. The Attorney General made a recent statement indicating the DOJ will fight drug use and marijuana will not be accepted as normal simply because it seems fashionable to do so in recent times. The DOJ has not issued an official statement about enforcement of marijuana activities under the new Administration.

Medical Marijuana in California
California was the first state to allow for the use and cultivation of medical marijuana when, nearly 20 years ago, voters passed Proposition 215, the Compassionate Use Act. Proposition 215 amended State law and allowed individuals in California to grow and possess medical marijuana with a physician’s recommendation. The law also allowed caregivers to grow and possess marijuana for patients with a recommendation from a physician.

Other states in every region of the country followed California’s lead by passing medical marijuana laws either by the initiative process or through state legislatures. Twenty nine states and the District of Columbia now have medical marijuana laws allowing marijuana for medical use. Medical marijuana laws are not identical state to state, but most provide patients safe access to marijuana for medical use without the threat of prosecution.

The Medical Marijuana Program Act (MMPA) was established in 2003 when the California State Legislature passed Senate Bill 420.

- The MMPA ushered in a Statewide voluntary identification card system for qualified marijuana patients and their primary caregivers administered by the California Department of Public Health.
- The MMPA authorized medical marijuana cooperatives to cultivate and distribute marijuana for medical uses to their members through dispensaries.
- Proposition 215 and the MMPA provided an initial framework for medical marijuana in California, but the lack of a regulatory structure including enforcement mechanisms Statewide led local jurisdictions to pass their own ordinances regulating medical marijuana cultivation and retail dispensaries.
Urban jurisdictions were the first to adopt land use ordinances allowing retail dispensaries. Some northern California counties adopted ordinances allowing cultivation. Other counties banned or significantly limited cultivation after communities suffered environmental damage and threats to public safety from high numbers of large marijuana cultivation sites. In 2013, the Butte County Board of Supervisors adopted Butte County Code Chapter 34A to regulate cultivation of medical marijuana. The chapter has since been amended four times and twice those amendments were subject to a referendum. Voters affirmed the Board’s amendments in both referenda.

A package of bills was passed by the State Legislature in 2015 to provide a statewide framework for regulating medical marijuana. The Medical Cannabis Regulation and Safety Act (MCRSA) is comprised of three bills, AB 243 (Wood), AB 266 (Bonta), and SB 643 (McGuire).

- The MCRSA established a Statewide structure for licensing and enforcing commercial medical marijuana cultivation, manufacturing, testing, transportation, storage, and distribution, which allowed local governments to ban or regulate the activities within their jurisdictions.
- The new framework allowed the State and local governments to establish licensing fees for medical marijuana businesses and tax marijuana activities.
- The new structure provided an exemption from State and local licenses for personal and caregiver cultivation.

The MCRSA established the Bureau of Medical Cannabis Regulation and also called upon other State departments for responsibilities related to the regulation. The State was anticipating regulations to be fully developed by January 1, 2018, but regulations for MCRSA will no longer move forward because SB 94 passed, which repealed the majority of the regulations put in place by MCRSA. Butte County Code Chapter 34A established local regulations for personal and caregiver exemptions to the commercial medical cannabis activities provided in MCRSA.

Governor Brown approved SB 94 Cannabis: medicinal and adult use on June 27, 2017. The bill does the following:

- Creates one system of administration for cannabis laws in California.
- Largely repeals MCRSA and aligns regulations for medical cannabis with those established by the AUMA for adult use cannabis.
- Establishes the Bureau of Cannabis Control to operationalize regulations and license commercial cannabis businesses for both medical and adult use marijuana in California.
- Maintains local licensing authority for counties.
- Calls for a communication process between State agencies and local jurisdictions to ensure only locally approved facilities receive State licenses. This process requires local jurisdictions to provide the Bureau of Cannabis Control with copies of local commercial cannabis ordinances before a license is issued. The State estimates licenses will be issued beginning January 1, 2018 after an expedited regulatory process.

**Adult Use of Marijuana**

In 2012, voters in Colorado and Washington became the first to legalize small amounts of marijuana for recreational use by adults over the age of 21. Similar voter initiatives were approved in Alaska, Oregon, and the District of Columbia in 2014 as well as by voters in California, Maine, Massachusetts, and Nevada in 2016. Use of recreational marijuana has only been legalized by voter initiatives thus far; no state legislature has passed a similar law.

California voters passed Proposition 64 on November 8, 2016, which established the Adult Use of Marijuana Act (AUMA). The measure passed in Butte County with 53% voting yes and 47% voting no.
The AUMA allows adults 21 and older to possess, transport, purchase, consume and share up to one ounce, or 28.5 grams of marijuana and 8 grams of "concentrated cannabis" or edibles.

The AUMA establishes a regulatory framework for commercial marijuana activities including cultivation, manufacturing, testing, distribution, and sales.

The measure includes a personal exemption that allows adults 21 years and older to possess, plant, cultivate, harvest, dry, or process up to six cannabis plants.

Local control provisions are included in the AUMA for both the commercial cannabis activities as well as the personal exemption. Local governments can ban or regulate commercial cannabis activities.

The AUMA does not allow a State license to be issued to an applicant if it violates local ordinances or regulations.

The Board of Supervisors has the authority to ban or regulate any of the activities to be licensed by the State Bureau of Cannabis Control. Currently, Section 24-166 of the Zoning Ordinance expressly prohibits marijuana dispensaries from operating in Butte County. Additionally, the Board of Supervisors already adopted an ordinance regulating the personal exemption allowing individuals over the age of 21 to possess, plant, cultivate, harvest, dry, or process up to six cannabis plants. Butte County Code Chapter 34C regulates the personal exemption.

**Local Authority to Ban or Regulate Commercial Cannabis Activities**

The Board of Supervisors has authority to ban or regulate commercial cannabis activities, to be licensed by the State, including: cultivation, manufacturing, testing, distribution, retail sales, and delivery, within the unincorporated area of Butte County. Table 1 illustrates the cannabis activities that will be licensed by the Bureau of Cannabis Control for medical and adult use beginning January 1, 2018. The Board of Supervisors may ban, or regulate and permit any of the activities up to the limits established by State law.

<table>
<thead>
<tr>
<th>Commercial Marijuana Activities</th>
<th>Butte County Regulation or Local Authority</th>
<th>State Licenses</th>
</tr>
</thead>
<tbody>
<tr>
<td>Specialty cultivation</td>
<td>Local jurisdiction may ban or regulate activity.</td>
<td>&lt; 5,000 sq. ft.</td>
</tr>
<tr>
<td>Indoor cultivation</td>
<td></td>
<td>5,001 to 22,000 sq. ft.</td>
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<tr>
<td>Mixed light cultivation</td>
<td></td>
<td>5,001 to 22,000 sq. ft.</td>
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<tr>
<td>Outdoor cultivation</td>
<td></td>
<td>5,001 sq. ft. to 1 acre</td>
</tr>
<tr>
<td>Nursery</td>
<td></td>
<td>1 license type</td>
</tr>
<tr>
<td>Manufacturing</td>
<td></td>
<td>2 license types (non-volatile solvents vs. volatile solvents)</td>
</tr>
<tr>
<td>Testing</td>
<td></td>
<td>1 license type</td>
</tr>
<tr>
<td>Distribution</td>
<td></td>
<td>1 license type</td>
</tr>
<tr>
<td>Microbusiness</td>
<td></td>
<td>1 license type</td>
</tr>
<tr>
<td>Retailer (dispensary)</td>
<td>Prohibited (Zoning Ordinance 24-166)</td>
<td>1 license type</td>
</tr>
<tr>
<td>Delivery (end user transport)</td>
<td>Local jurisdictions may ban delivery, but cannot prohibit transportation on public roads.</td>
<td>Related to retailer license type.</td>
</tr>
</tbody>
</table>
Cultivation
Cultivation license types are based primarily on the type of light and the size of the growing areas. Cultivation is defined as any activity involving the planting, growing, harvesting, drying, curing, grading or trimming of marijuana. The cultivation license types and growing areas are listed below along with the definition for the nursery license type.

- Specialty cultivation - < 5,000 sq. ft.
- Indoor cultivation - 5,001 to 22,000 sq. ft.
- Mixed light cultivation - 5,001 to 22,000 sq. ft.
- Outdoor cultivation - 5,001 sq. ft. to 1 acre
- Nursery - produces clones, immature plants, seeds, and other agricultural products used specifically for the planting propagation, and cultivation of marijuana.

California Jurisdictions
Commercial cannabis cultivation is being considered throughout the State. In most cases, California counties and cities have yet to enact local ordinances to address commercial activities. A few northern California Counties, such as Humboldt and Mendocino, have permitted commercial cultivation. On the other hand, many of their neighbors are working to ban commercial cultivation. Elsewhere, more urban counties, such as Alameda, are limiting the number of commercial cultivation sites and have established a merit-based proposal process for businesses interested in the license type. In short, California counties are showing there are many different way to regulate commercial cultivation based on local needs and priorities.

Butte County Jurisdictions
Commercial activities are not permitted within the cities of Biggs, Chico, Gridley, and Oroville, or within the Town of Paradise.

Next Steps
The Board of Supervisors has the ability to ban, or regulate and permit, commercial cultivation activities up to the amounts allowed by State law.

- A ban would require a local ordinance.
- Regulating and permitting commercial cultivation would also require a local ordinance giving consideration to several factors including where cultivation can occur, environmental considerations, security and storage, types of authorization, and indoor versus outdoor.

Figure 1, on the next page, illustrates the items to consider when drafting a local ordinance.
Local Regulatory Requirements
CalCannabis is housed within the California Department of Food and Agriculture (DFA) and is responsible for licensing cannabis cultivators and establishing a track-and-trace system. Regulations will be developed by DFA in coordination with the Department of Pesticide Regulation and will include conditions requested by the Departments of Fish and Wildlife and the State Water Resources Control Board to address the impacts of water discharge and diversion.

The role for California Agricultural Commissioners (CACs) in licensing and enforcing DFA regulations is not yet clear. The rulemaking process to establish regulations and procedures is starting over because of the passage of SB 94.

The impacts to the Butte County Agricultural Commissioner will not be known until State regulations and procedures for licensing and enforcement are complete, including the option for the Agricultural Commission to contract with the State to permit and regulate cannabis.

- The Agricultural Commissioner’s duties would not change if the Board of Supervisors adopted an ordinance prohibiting commercial activity.
- The impacts to the Agricultural Commissioner could be significant if commercial cultivation activities are allowed because of the need for:
• pesticide use enforcement, including investigations of violation and complaints;
• pest exclusion, detection eradication, and management;
• biological controls;
• nursery and seed inspections;
• organic programs;
• crop statistics;
• certification of commercial weighing devices;
• point of sales (scanners); and
• prepackaged labeling and quantity.

Licensed cultivation is required to be conducted in accordance with State and local laws, including those related to land conversion, grading, approved water source, water quality, hazardous materials/waste, and agricultural discharges. The State would be directed to coordinate, when appropriate, with local cities and counties on these issues.

The Butte County Environmental Health Division would not have additional duties related to commercial cultivation if the Board of Supervisors adopted an ordinance prohibiting commercial activity. However, this could result in a significant impact on the workload of staff in the Public Health Department-Environmental Health Division, if commercial activities are allowed in Butte County. The County could establish fees for licenses and inspections to cover the cost of staff time for these activities, but staff time spent coordinating with the State may not be fully covered.

**Manufacturing and Testing Laboratories**

State law provides two manufacturing license types, which are differentiated based on the use of volatile solvents for processing, and one license type of testing laboratories. A manufacturer is defined as a person that conducts the production, preparation, propagation, or compounding of marijuana products either directly or indirectly by extraction and chemical synthesis at a fixed location that packages or re-packages marijuana or marijuana products or labels or re-labels its containers. One testing license type is available from the State and must be held by an independent firm that does not hold any other license types. Testing is defined as a facility, entity, or site in the State that offers or performs tests of cannabis or cannabis products.

**California Jurisdictions**

Many counties and cities throughout California have not yet established regulations for all commercial cannabis activities. Some jurisdictions permitting commercial cultivation are permitting manufacturing and testing in order to retain the jobs and economic benefits associated with these operations. Most jurisdictions banning, or considering bans for cultivation, have also banned, or are considering bans for, commercial manufacturing and testing.

**Butte County Jurisdictions**

Commercial activities are not permitted within the cities of Biggs, Chico, Gridley, and Oroville, or within the Town of Paradise.

**Next Steps**

The Board of Supervisors has the ability to ban, or regulate and permit, commercial manufacturing and testing facilities.

• A ban would require a local ordinance.
• Regulating and permitting these facilities would also require a local ordinance and should give consideration to several factors including volatile versus non-volatile, location of facilities, security and storage, authorization, and operating procedures for testing.
Figure 2 illustrates the items to consider when drafting a local ordinance.

**Figure 2: Considerations for Commercial Cannabis Manufacturing and Testing**
*Source: Riverside County*

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**Local Regulatory Requirements**

The Office of Manufactured Cannabis Safety is housed within the California Department of Public Health and is responsible for regulating manufacturing license types. The Bureau of Cannabis Control licenses testing laboratories. Regulatory procedures have not been established for SB 94 or Proposition 64 so it is unclear if State level staff will be used to implement the regulations or if the State will rely on local health departments for licensing, inspections, and enforcement.

- The Butte County Department of Public Health duties related to marijuana activities would not change if the Board of Supervisors adopted an ordinance prohibiting commercial activity.
- Butte County may establish fees for licenses, permits, and inspections to cover the cost of staff time for these activities if commercial activities are allowed in Butte County. Staff training would...
be required for inspections because the Environmental Health Division would be inspecting facilities they have not inspected before, such as manufacturing facilities with a high risk for combustion due to volatile solvents and manufacturers who produce edible products containing marijuana or concentrated cannabis.

**Distribution**
State law allows one license type for distribution, which is defined as the procurement, sale, and transport of marijuana and marijuana products between entities licensed for marijuana activities.

*California Jurisdictions*
Many counties and cities throughout California have not yet established regulations for all commercial cannabis activities. Some jurisdictions permitting commercial cultivation, manufacturing, testing, and retail sales, are also permitting distribution in order to allow the flow of product between the businesses. Most jurisdictions banning, or considering bans for these activities, have also banned, or are considering bans for, commercial distribution.

*Butte County Jurisdictions*
Commercial activities are not permitted within the cities of Biggs, Chico, Gridley, and Oroville, or within the Town of Paradise.

**Next Steps**
The Board of Supervisors has the ability to ban, or regulate and permit, commercial cannabis distribution.
- A ban would require a local ordinance.
- Regulating and permitting distribution would require a local ordinance giving consideration to several factors including location of facilities, records, authorization, security and storage, and vehicle requirements.

Figure 3, on the next page, illustrates the items to consider when drafting a local ordinance.
Retail Sales
State law allows one retail sales license type and one license type that is a hybrid of several called, Microenterprise. The Microenterprise includes retail sales, but also includes licensing for cultivation of less than 10,000 square feet, a non-volatile compound manufacturer, and a business to business distributor license. Retail sales, often called dispensaries, includes sales to an end user for medical use or adult use cannabis. SB 94 and the AUMA refer to these as retailers.

California Jurisdictions
Medical marijuana dispensaries have been operating throughout California for many years; primarily in urban areas. State regulators are working through the process to define how retailers can sell medical and adult use cannabis and how physical locations can be modified to allow the uses. These regulations are still being drafted.

One way in which some counties have chosen to regulate retail sales is to limit the number of permits available for this activity within their jurisdiction. Counties have also chosen to regulate the activity by narrowing the geographic area where the businesses can locate, using a lottery system, or using a merit-based proposal system to award permits for the activity.
Butte County Jurisdictions
Commercial activities are not permitted within the cities of Biggs, Chico, Gridley, and Oroville, or within the Town of Paradise.

Next Steps
- Currently, the Zoning Ordinance prohibits marijuana dispensaries, but this ordinance may need to be updated if the Board wishes to continue banning dispensaries and retail sales.
- Regulating and permitting these facilities would require a local ordinance, and should give consideration to several factors, including location of retailers, security and storage, authorization, and business requirements.

Figure 4 illustrates the items to consider when drafting a local ordinance.

Figure 4: Considerations for Commercial Cannabis Retailers
Source: Riverside County
Local Regulatory Requirements
Because regulatory procedures have not been established for SB 94 or Proposition 64, it is unclear the degree to which State Department of Public Health staff will play a role in retail oversight and inspections, or if this responsibility will fall to local public health departments. Of particular concern are edible products containing marijuana or concentrated cannabis. The AUMA requires these products to be manufactured and sold under sanitation standards established by the California Department of Public Health for the preparation, storage, handling, and sale of food products.

- The Butte County Public Health Department would not have additional duties related to commercial retail establishments if the Board of Supervisors adopted an ordinance prohibiting commercial activity.
- If local retail establishments are allowed, the Butte County Public Health Department may be given the responsibility to enforce retail sanitation standards, similar to regular retail food facilities. This would require additional staff training, as this is an entirely new field of food safety, as well as additional staff time to inspect the facilities. The County could establish fees for retail licenses and inspections to cover the cost of staff time for these activities, but staff time spent coordinating with the State may not be fully covered.

Delivery
Delivery means the commercial transfer of cannabis or cannabis products to a customer. Delivery also includes the use by a retailer of any technology platform owned and controlled by the retailer. A retailer must have a licensed retail sales location in order to initiate deliveries. A retailer’s premises may be closed to the public and may be used exclusively for the purpose of conducting deliveries.

Counties and cities may arguably prohibit deliveries to customers located within their jurisdictions, but cannot prohibit a licensed distributor or retailer from traveling on public roads through a local jurisdiction to make a delivery. The Board of Supervisors may therefore adopt a local ordinance to ban deliveries from a licensed facility to customers in Butte County, but consideration should be given to how this regulation would be enforced. Deliveries from a licensed facility to a potential customer in Butte County are assumed to be allowed by state law unless a local ordinance is adopted banning the activity, and therefore no ordinance is needed to continue to allow for this activity.

Local Taxation of Commercial Cannabis Activities
Proposition 64 added Division 2 of the California Revenue and Taxation Code. The provision provides for a 15% State retail excise tax on medical and adult use marijuana sold in California. A State tax of $9.25 per ounce of dried marijuana flowers and $2.75 per ounce of dried marijuana leaves will be imposed on all marijuana cultivated in California. The California Marijuana Tax Fund will be established and State excise taxes and taxes on cultivation will be deposited in the fund. The costs of regulatory agencies not fully covered by licensing fees will be paid from the fund. Once regulatory costs are covered, the fund will pay:

- $10 million annually to evaluate the effects of Proposition 64;
- $3 million annually to DUI research;
- $10 million annually and scaling up in subsequent years for a grant program that provides services in communities most impacted by drug policies; and
- $2 million annually to study marijuana for medical purposes.

Grant funds of $10 million in fiscal year 2018-19, with annual increases of $10 million through fiscal 2022-23 and $50 million each year thereafter, will be distributed to the Office of Business and Economic Development. These funds will be used to administer a Community Reinvestments grant program to local health departments and qualified non-profits for job placement, mental health
treatment, substance abuse treatment, and other similar services. Local jurisdictions may apply to receive these funds regardless of local ordinances that ban or permit commercial cannabis activities.

The remaining tax revenue will be spent for three specific purposes:

- 60% for youth programs for education, prevention, and treatment;
- 20% for environmental restoration and cleanup; and
- 20% for state and local law enforcement.

Local governments are eligible to apply for funding for youth programs regardless of local ordinances that ban or permit commercial cannabis activities. Funds for environmental restoration and cleanup will likely go to the California Department of Fish and Wildlife. Local governments with ordinances that do not permit commercial cannabis activities cannot receive grants to local law enforcement.

**Sales Tax**

State sales tax applies to the purchase of cannabis or cannabis products from a licensed retailer. The AUMA provides an exemption from State sales tax for patients purchasing medical marijuana with an identification card. Local governments only receive the local portion of State sales tax from retailers operating a physical retail location within their jurisdiction. Local governments will not receive sales tax for cannabis or cannabis products delivered to their jurisdiction from a retailer located in another jurisdiction.

**Local Tax**

An additional local tax may be imposed on commercial cannabis activities and products by local jurisdictions for commercial activity occurring within the jurisdiction. A tax could be proposed by the Board of Supervisors and placed on the ballot with a 2/3 vote of the Board. A tax measure for a general tax would be subject to a majority vote of the voters. A tax measure for a special tax would be subject to a 2/3 vote of the voters. Other counties have made a local ordinance for commercial cultivation or retail sales subject to the approval of a taxing measure, in order the ensure adequate revenue to address the expected increases in costs to regulate these types of business operations. Local jurisdictions are imposing taxes on cultivation in various ways. One way is to charge a flat rate for each square foot of cultivation area. Another way is to apply a flat fee on the weight of the product like the State tax. Another way is to tax a percentage of the gross value of the product. Most jurisdictions tax retail sales by applying a percentage to the retail price. A tax measure is only applicable if the commercial cannabis activity is permitted within the jurisdiction.

**Recommendation**

Staff recommends the Board of Supervisors exercise its authority for local control after considering options to either ban or regulate commercial cannabis activities and providing direction to staff to develop applicable ordinances. Staff will develop an ordinance for any activity the Board of Supervisors desires to ban, and bring it to a future Board Meeting for consideration. Any commercial cannabis activities the Board of Supervisors desires to regulate and permit may require discussion at a future Board Meeting to consider regulatory components. After the regulatory considerations are made, staff will develop an ordinance for Board of Supervisors consideration. Staff recommends the Board of Supervisors have applicable ordinances in place by January 1, 2018 when the State begins issuing licenses to commercial cannabis businesses.