COUNTY OF HUMBOLDT

For the meeting of: 8/13/2024

File #: 24-1212

To: Board of Supervisors

From: Supervisor Rex Bohn and Supervisor Michelle Bushnell

Agenda Section: Initiated by Board Member

Vote Requirement: Majority

SUBJECT:
Letter Opposing Assembly Bill 2223 (Aguiar-Curry) Unless Amended

RECOMMENDATION(S):
That the Board of Supervisors:

1. Authorize the Chair to sign the attached letter opposing Assembly Bill 2223 unless amended.

STRATEGIC PLAN:
The recommended action supports the following areas of the Board of Supervisors' Strategic Plan:

Area of Focus: A Diverse, Equitable & Robust Economy
Strategic Plan Category: 2001 - Promote strong economic resiliency and growth

DISCUSSION:
California's retail market has recently seen a flood of intoxicating hemp products hit traditional beverage retail and online stores, making it incredibly easy for consumers and youth to access. These products often contain high levels of THC (tetrahydrocannabinol) and because they are not treated like cannabis they are untested, untaxed and unregulated. This development poses a threat to public health, the cannabis industry and Humboldt County farmers.

Assembly Bill (AB) 2223 (Aguiar-Curry) (Attachment 3) would provide certain protections regarding intoxicating hemp, but there are still significant local concerns. As currently written, the bill would create a pathway to integrate hemp products into the cannabis marketplace, regulated by the Department of Cannabis Control (DCC). It also would revise requirements governing industrial hemp products to clarify and expand the prohibition on synthetic forms of THC, and would establish a seizure and embargo process for unlawful hemp products. The bill has been amended via proposed technical assistance (TA) late in the legislative session and is a priority for the Governor. The proposed TA intends to achieve four primary objectives:

1. Prohibit the inclusion of synthetic cannabinoids in cannabis and hemp-derived products. Synthetic cannabinoids will be defined in regulations promulgated by the DCC.

2. Prohibit the sale of intoxicating hemp-derived cannabinoid products in traditional retail settings and online. Instead, all hemp-derived cannabinoid products that contain THC will be required to be distributed by a licensed distributor, tested by a licensed testing lab, and sold in a licensed dispensary. They will also be taxed accordingly. This component will take effect when the regulations are completed and not later than January 1, 2027.

3. Allow for the integration of non-intoxicating, naturally derived cannabinoids (e.g. CBD) into cannabis manufactured products. This will allow the legal industry to incorporate lower-cost non-intoxicating cannabinoids into cannabis products,

making them less costly for consumers.

4. Bolster the enforcement capabilities over noncompliant hemp products to include the California Department of Tax and Fee Administration (CDTFA), DCC and local governments.

While the TA attempts to confront the dynamic of hemp-derived THC entering the retail market, including requiring these products be sold at dispensaries which is a critical element, there are strong local concerns that are not addressed and would have significant negative impacts. Allowing intoxicating levels of hemp-derived THC creates a parity issue for state-licensed cannabis farmers and is diametrically opposed to the original vision of hemp's role in the market. The County of Humboldt recognizes the need to address hemp, but this must be accomplished in a manner that respects the hard-fought regulatory system put in place for cannabis cultivation.

Staff, with the aid of the County of Humboldt's lobbyist, have worked with local stakeholders, proponents of the bill, Senate staff and Rural Counties Representatives of California (RCRC) to understand the bill and develop recommendations. The California Association of Counties (CSAC) and RCRC both supported the bill. Mendocino and Nevada counties are opposed. The attached letter recommends opposing this bill unless amended. The proposed amendments are as follows:

1. Include a ban on incorporating all forms of hemp-derived THC into cannabis products;
2. Establish a maximum THC threshold for hemp products at non-intoxicating levels; and
3. Establish a clear statutory definition for synthetically derived cannabinoids.

This bill is a candidate to go to the Senate Appropriations committee's Suspense File as it has a fiscal impact to the state. If approved through the Suspense Hearing on August 15, 2024, the bill will head to the Senate floor for further consideration.

SOURCE OF FUNDING:
General Fund

FINANCIAL IMPACT:
There is minimal financial impact to the County of Humboldt for advocating on this bill at this point, as those expenses were included in the adopted budget. However, should the bill be signed into law it could have a significant negative impact on the local economy and the County of Humbodlt's cultivation tax revenue.

STAFFING IMPACT:
The bill is likely to require continued advocacy and time spent by county staff to ensure the suggested amendments are enacted.

OTHER AGENCY INVOLVEMENT:
Humboldt County Grower's Alliance; CSAC; RCRC

ALTERNATIVES TO STAFF RECOMMENDATIONS:
Board discretion.

ATTACHMENTS:
1. Draft letter opposing AB 2223 unless amended
2. AB 2223 as amended (including TA)
3. Summary of AB 2223 TA changes

PREVIOUS ACTION/REFERRAL:
Meeting of: None
File No.: None