



OFFICE OF THE COUNTY EXECUTIVE

Marc Elrich
County Executive

February 17, 2023

TO: The Honorable C. T. Wilson
Chair, Economic Matters Committee

FROM: Marc Elrich
County Executive

RE: House Bill 556, *Cannabis Reform* – Support with Amendments

I am writing to express support for House Bill 556, *Cannabis Reform*, with amendments that address issues relating to local zoning authority, the rights and responsibilities of employers and employees, and revenue generation and distribution. The bill outlines a thoughtful and comprehensive plan for a licensing and regulatory system that will allow the State to move forward as expeditiously as possible to provide safe access to cannabis products, minimize negative public health impacts, ensure diversity and social equity in the cannabis industry, and reinvest resources in communities that have been disproportionately impacted by the long history of racial and socioeconomic disparities in the enforcement of criminal laws relating to marijuana and other cannabis products. The bill is an excellent vehicle for facilitating final decisions about the many policy issues that must be made this year.

Regarding zoning authority, the bill authorizes local governments to establish “reasonable” zoning requirements for cannabis businesses but also states that the requirements may not create an “undue burden”. Unfortunately, the term “undue burden” is not defined in the bill and will likely lead to delays in implementation due to litigation regarding its meaning. The bill should be amended to either strike the undue burden requirement or define it concretely in a manner that preserves local zoning authority regarding growers, processors, and dispensaries similar to the scope of authority that undergirds current zoning laws that apply to other agricultural, manufacturing, and retail/service businesses. By way of comparison, there is nothing in current State law that restricts local zoning authority for medical cannabis, alcoholic beverage, tobacco, or vaping businesses. Even one step further, recently enacted State law governing sports wagering facilities expressly states that these types of businesses are subject to local zoning.

The bill, appropriately, seeks to clarify the rights and responsibilities of employees and employers. However, this part of the bill is confusing and inconsistent. The bill uses the terms “employer” and “government employer” in various places but neither term is defined. As a

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result, it is unclear whether the parts of the bill that apply to an employer also apply to a government employer. The provisions that relate only to government employers are also inconsistent regarding circumstances under which an employee may be disciplined. The bill should be amended to clarify its intent.

House Bill 556 establishes a State sales tax of 6% (increasing by 1% each year until reaching 10% in fiscal year 2028) and allocates 1.5% of the sales tax revenues to local governments. There is no local taxing authority in the bill. An aggregate sales tax of 6% to 10% is a moderate step when compared to the aggregate tax rates in other states that have legalized cannabis. However, many other states have also allocated a higher share of new tax revenues to local governments or have granted new taxing authority to them. The bill should be amended to grant taxing authority to local governments or to ensure that local governments receive a more equitable share of State sales tax revenues to help support programs that address the negative impacts of legalized cannabis on public health and public safety as well as other related programs that serve their communities.

As the Economic Matters Committee moves forward with finalizing decisions about the bill, I respectfully request that the Committee consider the issues discussed above and give the bill a favorable report with amendments that address each issue.

cc: Members of the Economic Matters Committee