

April 2, 2019

Business and General Government Committee
900 Court St, NE- HR B
Salem, OR 97301

RE: SB 365- Relating to EFU and System Development Charges relating to Marijuana

Chair Riley, Vice-Chair Girod and Members of the Committee, my name is Jeston Black and I am the Director of Government Relations for Multnomah County. Thank you for the opportunity to provide written testimony and raise two concerns that Multnomah County has regarding SB 365.

Our first concern is the impact that this legislation could have on farm land. The Dash-2 amendment, which states that "the production of marijuana is an outright permitted use of land that is located within an Exclusive Farm Use (EFU) zone," is of concern to Multnomah County in that it would preclude our ability to limit licenses in EFU to one for production and/or licensing for each EFU lot and it would preclude our ability to regulate the use with reasonable time, place, and manner provisions. The community spent months examining and discussing the regulation of marijuana in order to establish reasonable time, place, and manner restrictions to assure the production of marijuana is consistent with community values. This proposed legislation would take away the County's ability to enforce these regulations. Counties and cities should be allowed to retain their current time, place, and manner restrictions. It seems only appropriate that this be considered given the sweeping changes that are proposed within this legislation.

This bill proposes to treat marijuana as if it were tomatoes or filberts. Marijuana is very different than a traditional farm crop. Not everyone agrees that marijuana should be legal, and the ability to regulate the time, place, and manner in how it is produced provides a necessary buffer to be able to permit production in many counties across the state. One of the refreshing things about the way that Oregon implemented the recreational marijuana is that it was done in a way that supported small business owners that were interested in entering the market. The proposed changes within this bill could serve to impact small business owners as well. The State of Oregon currently produces more marijuana than is consumed within the State. Much of the excess production is then sold in the black market. This is a continuing problem that the State has not resolved. Allowing for additional production will only serve to provide additional product that will not be consumed within the State. Where will this product go? How does this additional supply affect the ability for small business owners to be successful?

The ability to regulate the time, place, and manner of production allows us to control light and smell from indoor grow operations that have an impact on land owners and residents in the surrounding area. In addition our ability to regulate the amount of outdoor production and the location of the outdoor production provides us the ability to control odor and other impacts to adjacent neighbors. Removing our ability to regulate time, place, and manner could result in fields of marijuana with up to 40 times the number of plants currently allowed on our EFU properties as well as rows of greenhouses that would cause significant light pollution. This new regulation would have a major effect on the rural character of valuable county farm land and inconsistent with what the voters approved and the communities understanding of how the industry would be regulated.

There are marijuana production operations in Multnomah County and elsewhere throughout the state that operate on exclusive farm use (EFU) that rely upon generators to power the ability to produce marijuana. The generators operate 24 hours a day, 365 days a year. This bill does not adequately address issues associated with this such as sound and air quality from continuously running diesel engines. Allowing for additional production with no local regulation would provide incentive to continue and increase this practice.

Finally, Multnomah County is concerned that we will be prohibited from collecting System Development Charges (SDCs) from Marijuana Related development. While we do not currently collect SDCs from marijuana grow operations, we are likely to need them in the future. SDCs are an important tool used by government agencies to mitigate the impacts of development on agency assets such as roads and storm water systems. SDCs are used to ensure that development pays for its own footprint. This prohibition would stunt the growth of important infrastructure such as roads that provide safe modes of travel and proper drainage systems that are needed with new development and changing land use policies. We know from experience that marijuana grow operations attract far more traffic than other crops. The roads near these operations need more maintenance and sometimes need to receive improvements to accommodate the increase in traffic. Without the ability to collect SDCs on marijuana developments, the county would be unable to match the existing infrastructure to what is needed with this new type of land usage. Additionally, we are concerned about the impacts on water quality and the quality of life of those who live and work in this area.

We urge the committee to protect time, place and manner regulation and enforcement for counties and continue to allow counties to collect SDCs when needed. Allowing these changes to take place would greatly impact farm lands and reduce county authority to mitigate impacts of marijuana related development on county assets.

Thank you,
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SB 365 Testimony

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