

FEBRUARY 22, 2021

# **The 2021-22 Budget: Consolidation of Cannabis Regulatory Responsibilities**

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LEGISLATIVE ANALYST'S OFFICE

# Most Cannabis Regulatory Responsibilities Currently Split Between Three Departments

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- ***Bureau of Cannabis Control (BCC)***. BCC, within the Department of Consumer Affairs (DCA), licenses commercial cannabis distributors, retailers, transporters, and testing laboratories. In collaboration with the Governor’s Office of Business and Economic Development (GO-Biz), BCC also administers the California Equity Act of 2018 grant program, which provides grants to local jurisdictions to support individuals impacted by cannabis criminalization who wish to participate in the legal cannabis market.
- ***California Department of Food and Agriculture (CDFA)***. CDFA licenses commercial cannabis cultivators and administers the “track-and-trace” system, which requires cannabis businesses to attach unique identifier tags to each plant and product. CDFA also administers the Cannabis Appellations Program, which provides designations for cannabis products based on their geographical origin and manner of production. In addition, CDFA provides cannabis cultivators with an “OCal certification” if their products meet certain standards similar to the organic certification provided for other products.
- ***California Department of Public Health (CDPH)***. CDPH licenses commercial cannabis manufacturers. Beginning July 1, 2021, CDPH will provide OCal certifications to cannabis manufacturers. In addition, CDPH administers the Medical Marijuana Identification Card Program, which provides qualified patients and caregivers with cards indicating they are authorized to use cannabis for medical purposes.



# Governor's Proposal

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## Consolidate Most Cannabis Regulatory Responsibilities in New Department

- **Primary State Entity Regulating Cannabis.** The Governor proposes budget trailer legislation to transfer responsibility for most cannabis regulatory responsibilities from BCC, CDPH, and CDFA to a new department within the Business, Consumer Services and Housing Agency—the Department of Cannabis Control (DCC). Because BCC's only responsibilities are related to cannabis licensing, the Governor's proposal would dissolve BCC following the transfer. According to the administration, the proposal is intended to create a single point of contact for cannabis licensees and stakeholders, in order to make licensing and compliance more straightforward, transparent, and efficient, as well as improve enforcement.
- **Other Entities Retain Some Activities.** Under the proposal, CDFA would retain responsibility for the Cannabis Appellations Program. In addition, CDFA and CDPH would continue providing OCal certifications. The proposal also does not change CDPH's responsibility for the Medical Marijuana Identification Card program. Finally, the budget trailer legislation would make Go-Biz primarily responsible for administering the California Equity Act of 2018 grant program.

## Transfer Existing and Provide New Resources to Support DCC

- **Provides \$154 Million for DCC in 2021-22.** The Governor's budget proposes a total of \$154 million from the Cannabis Control Fund (primarily supported by licensing fees) and 621 positions for DCC. The proposed funding would decrease annually until reaching \$137 million in 2024-25 and ongoing.
  - **Transferred Resources From Other Departments (\$151 Million).** The budget proposes to shift \$151 million and 598 positions in existing resources from BCC (\$73 million and 322 positions), CDFA (\$48 million and 155 positions), and CDPH (\$29 million and 121 positions).



# Governor's Proposal

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- **New Resources (\$3.2 Million).** The budget also proposes \$3.2 million and 23 positions in new resources to support DCC in 2021-22. As shown in the figure, most of the new positions are for executive, managerial, and information technology positions. In addition, resources are included to implement Chapter 270 of 2020 (AB 1525, Jones-Sawyer), which allows DCC to share licensees' information with financial institutions to facilitate financial services for the licensees.

<b>Proposed New Positions for Department of Cannabis Control</b>	
<b>Position Classification</b>	<b>Number of Positions</b>
<b>Executive, Administrative, and Public Relations</b>	
Career Executive Assignment B	2
Attorney IV	1
Staff Services Manager II (Supervisory)	1
Staff Services Manager II (Managerial)	1
Staff Services Manager I (Specialist)	1
Office Technician	1
Subtotal	(7)
<b>Information Technology (IT)</b>	
IT Specialist II	3
IT Supervisor II	2
IT Manager I	2
IT Associate	2
Office Technician	1
Subtotal	(10)
<b>Laboratory</b>	
Senior Environmental Scientist (Supervisory)	1
<b>Legal</b>	
Assistant Chief Counsel	1
Staff Management Auditor I	1
Subtotal	(2)
<b>Licensing</b>	
Associate Governmental Program Analyst	2
Senior Environmental Scientist (Supervisory)	1
Subtotal	(3)
<b>Total Positions</b>	<b>23</b>



# Assessment

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## Proposed Consolidation Makes Sense

- ***Current Structure Creates Challenges.*** The current structure of having three separate licensing entities—and no clear lead agency for cannabis regulation—creates challenges for the Legislature and the cannabis industry. Specifically, the current structure makes it difficult for the Legislature to know who to hold accountable or to easily access consistent information on cannabis regulatory activities. Similarly, it means that there is no central point of contact for cannabis businesses. Instead, businesses that hold multiple types of cannabis licenses may have to go to multiple departments to seek guidance.
- ***New Structure With DCC Could Improve Cannabis Regulation.*** Given the challenges identified above, we find that the Governor’s proposal to consolidate the cannabis regulatory functions into DCC has significant potential to improve the accountability and effectiveness of the state’s cannabis activities.



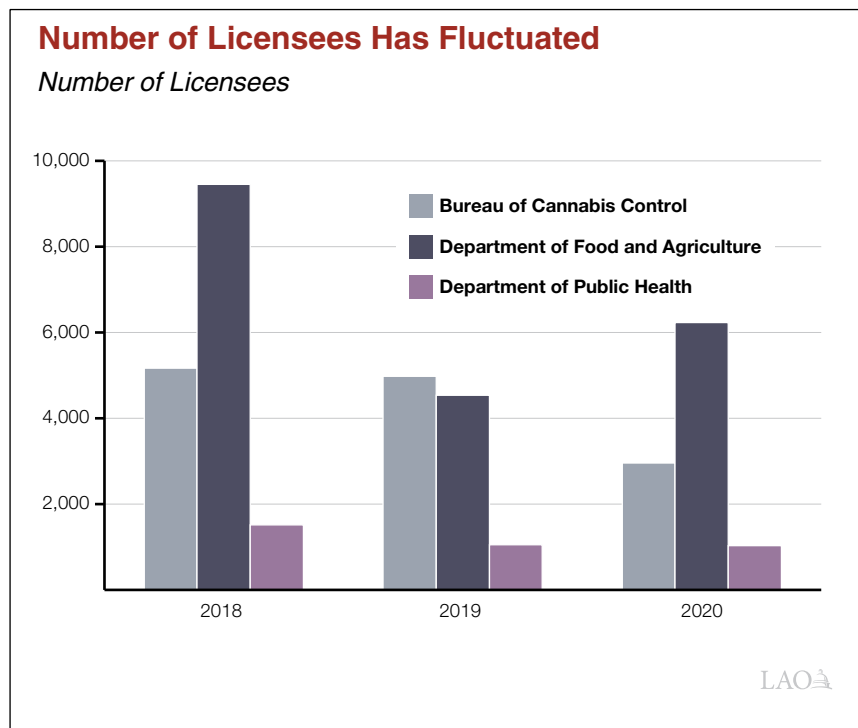
# Assessment

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## Ongoing Need for Resources Unclear

- **Regulated Cannabis Industry Still Maturing.** Given that the regulated cannabis industry is still in its early stages, there is significant uncertainty regarding the level of resources DCC will need on an ongoing basis to carry out its responsibilities. For example, as shown in the figure, the number of licensees for each entity has changed significantly in most years since licensing began in 2018. As a result, the ongoing resource needs of DCC could be higher or lower than proposed by the Governor.



## Assessment

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- ***New Structure Could Change Resource Needs.*** In addition, the Governor's new structure for cannabis regulation could change the overall level of resources needed to regulate the cannabis market. On the one hand, it is possible that the structure could create efficiencies that would reduce the need for resources in the future. On the other hand, having a single entity in charge of regulation could increase the need for resources, such as if DCC identifies new priorities that the Legislature concurs with. For example, the department could decide to place a greater emphasis on investigating unlicensed cannabis activity.



## Recommendations

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- **Approve Proposed Consolidation.** As consolidating most cannabis regulatory responsibilities under a single entity has significant potential to improve the accountability and effectiveness of the state’s regulation of cannabis, we recommend the Legislature approve the Governor’s proposal to create DCC.
- **Approve Requested Resources on Limited-Term Basis.** Given the significant uncertainty around the ongoing need for resources for DCC, we recommend approving the requested funding on a three-year, limited-term basis (rather than on an ongoing basis as proposed by the Governor). This would provide more time for the cannabis market to mature and for DCC to identify any changes in its workload due to the consolidation.
- **Require Report on Workload.** We further recommend that the Legislature require DCC to provide a report no later than November 1, 2023 on how actual workload compares to the level of workload assumed for each approved position. The report should also describe any changes in the department’s priorities (such as greater focus on investigating unlicensed activity) and operations (such as efficiencies achieved from consolidation) and the implication of those changes for ongoing resource needs. This would provide the Legislature with information to assess the department’s ongoing need for resources as it considers the budget for 2024-25—the year funding would expire for DCC under our recommendation to provide limited-term funding.

