



May 2, 2018

The Honorable Lorena Gonzalez Fletcher  
Chair, Assembly Appropriations Committee  
State Capitol, Room 2144  
Sacramento, CA 95814

**RE: Assembly Bill 2069 (Bonta) – OPPOSE**

Dear Assembly Member Gonzalez Fletcher:

On behalf of the Rural County Representatives of California (RCRC), the Urban Counties of California (UCC), the California State Association of Counties (CSAC), the CSAC Excess Insurance Authority (CSAC-EIA), the League of California Cities (LCC), and the California Special Districts Association (CSDA), we regret to inform you of our opposition to Assembly Bill 2069, authored by Assembly Member Rob Bonta. AB 2069 would generally prohibit employers from terminating or refusing to hire medicinal cannabis users, even if they fail a drug test.

Many municipal associations were deeply involved in developing the package of bills that ultimately became the Medical Cannabis Regulation and Safety Act (MCRSA), and in close consultation with the drafters of Proposition 64. Both pieces of legislation included explicit provisions protecting employers' right to maintain a drug-free workplace, and disclaiming any intention to interfere with employment decisions or relationships. These provisions were of critical importance to public and private employers, and were instrumental in the passage of legislative measures and the initiative. AB 2069 would effectively abrogate these provisions only a short time after they were enacted. Such rapid policy reversals may have the effect of discouraging stakeholders from engaging in good faith during the deliberation future legislation in this area, thereby ultimately hindering the progress of cannabis legalization.

On the merits of AB 2069, requiring government agencies and private businesses to hire and retain employees who test positive for cannabis, or otherwise accommodate employees' cannabis usage, will have substantial negative consequences. Unlike alcoholic beverages, there is no generally-accepted empirical test for cannabis impairment, as required under AB 2069 before taking job action. Such difficulty in proving actual impairment will inevitably discourage employers from acting to remove employees from potentially hazardous positions, thereby endangering the employee, co-workers, and the public. Employers need the ability to take proactive measures *before* on-the-job impairment occurs – something AB 2069 would deny.

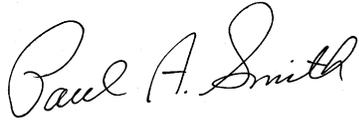
Similarly, allowing an employer to take job action if they can prove that "hiring the individual or failing to discharge the employee would cause the employer to lose a monetary or licensing-related benefit under federal law or regulations" will place many employers - particularly public agencies - in an untenable position. While federal law generally requires federal grantees (including most government entities) to maintain a drug-free workplace, it will often be difficult for the employer to prove that retaining a *specific individual employee* will directly cause the loss of federal benefits. AB 2069 would leave employers with general legal obligations to maintain safe and drug-free workplaces, but limit their ability to take the specific actions necessary to achieve those goals.

Finally, AB 2069 is poorly drafted, and may lead to adverse consequences even beyond those intended. Unlike prior legislative efforts (i.e., Assembly Bill 2279 - Leno of 2008), AB 2069 does not include an express exemption for safety sensitive positions – such as law enforcement officers, those handling municipal finance systems, nor health care providers. Similarly, those few other states that provide employment protections for cannabis patients often include significant limitations not provided in the current AB 2069. For example, the State of Illinois expressly preserves employers' ability to "enforc[e] a policy concerning drug testing, zero-tolerance, or a drug free workplace". By contrast, AB 2069 would engraft sweeping employment protections onto California's expansive medicinal cannabis program – and would add those protections to the Fair Employment and Housing Act, thereby invoking a panoply of vigorous enforcement provisions. This overbreadth is particularly concerning for municipalities, whose employees perform numerous functions affecting the public safety and public trust.

For the reasons stated, we respectfully urge your 'No' vote on AB 2069. If you should have any questions or concerns with these comments, please do not hesitate to contact Paul A. Smith of RCRC at (916) 447-4806, Jolena Voorhis of UCC at (916) 327-7531, Dorothy Johnson of CSAC at (916) 650-8133, Michael Pott of CSAC-EIA at (916) 850-7300, Dane Hutchings of LCC at (916) 658-8200, or Dillon Gibbons of CSDA at (916) 442-7887.

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Sincerely,



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cc: The Honorable Rob Bonta, Member of the State Assembly  
Members of the Assembly Appropriations Committee  
Consultant, Assembly Appropriations Committee