

## Round 2 begins over cannabis banking

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Closely watched by California's cannabis industry, a new effort is underway to allow the creation of basic banking services for marijuana growers, distributors, sellers and others.

Last year, similar legislation died. But supporters hope the revised bill will draw more support – including backing from newly elected Gov Gavin Newsom.

The industry, in turmoil from licensing problems and other issues, hopes the second time will be the charm.

The new bill, SB 51, is authored by Sen. Bob Hertzberg, D-Van Nuys, who also authored last year's measure, SB 930.

"The bill itself this year is probably going to be extremely similar to last year, but a few outside aspects have changed" said Katie Hanzlik, Hertzberg spokeswoman.

"We guessed that there wasn't quite as much of an appetite in the previous administration, so the good thing on that front is that we have a new administration, and it's our understanding that Gov. Newsom is really open to this whole field of cannabis and making this industry work in the state."

SB 51 would allow for private entities to create cannabis-specific, limited charter banks and credit unions that can apply for a state charter. These banks and credit unions can offer limited services such as issuing special purpose checks, the purchase of bonds, or for the payment of taxes or "vendors specifically located in California."

But there are problems.

Although approved by California voters for medicinal and recreational use, cannabis remains a Schedule 1 drug under federal law, which means it is closely regulated and its possession, distribution and use may carry stiff penalties. Other Schedule 1 drugs include heroin, mescaline and LSD.

Full-service banking institutions, which are federally regulated, often have refused to do business with the cannabis industry, fearing auditing and blowback from the federal government.

As a result, a survey conducted by the California Growers Association in 2017 found that “more than two-thirds of its membership is unbanked, with cultivators having the lowest level of access along the supply chain.”

These unbanked businesses pose security risks, operating with large amounts of cash to pay employees, suppliers and state tax agencies that, in turn, are not equipped with adequate security to deal with large cash transactions.

“Duffel bags and sometimes suitcases of cash would arrive quarterly at some of our designated offices and some business owners had to drive 350 miles to pay their taxes. I asked how much we collected from the cannabis industry and my agency really didn’t know since tax revenues are “commingled” and deposited with other cash tax payments” recalled state Treasurer Fiona Ma in a address to the U.S. House.

The legal cannabis market pulled in \$345 million in tax revenue last year, according to state figures. The total California market is estimated at about \$5 billion, according to various projections.

Public safety concerns have spurred bipartisan support of legislation addressing access to banking services. Past attempts at creating a state-run cannabis depository institution have failed, most notably with the death of SB 930 in the Legislature.

“A lot of last year, people were looking at alternatives to SB 930 and saying, ‘Oh well, if we have other options we don’t have to necessarily do this one,’” Hanzlik said.

One of those alternatives was a state-chartered bank that supporters argued could focus on services rather than profit, as well as offering memberships to cannabis businesses. But those costs were determined to be insurmountably high, according to a study by former state Treasurer John Chiang.

Now, while no nearer a solution than last year, changing administrations and attitudes suggest a more receptive environment for a “new and improved SB 51,” which toes a middle ground between creating an entirely new state-owned bank and SB 930’s creation of limited charter licenses for pre-existing banks and credit unions.

The bill is expected to have its first policy committee hearing within weeks.

There may be a clock ticking.

Backers of legalized cannabis believe the current federal restrictions on the drug could be eased or eliminated entirely in 2021 if a Democrat is elected president next year. That, in turn, might negate the need to establish a state banking system for the cannabis industry if the new president supports legalization.

Backing Hertzberg’s measure are the California Cannabis Industry Association, the Rural County Representatives of California, Weedmaps, Cannabis Distribution

Organization, The National Organization for the Reform of Marijuana Laws (NORML), The National Cannabis Industry Association (NCIA) and Treasurer Fiona Ma, among others.

Foes include a group called Smart Approaches to Marijuana (SAM Action) and another called DUID Victim Voices, where DUID refers to “driving under the influence of drugs.”

Meanwhile, legal cannabis industry leaders fear the potential loss of 10,000 temporary grower’s licenses in the near future, a problem stemming, at least in part, from what growers say is the state’s too-lengthy licensing procedure.

Industry observers say the lack of licenses would cripple the legalized market and encourage customers to meet their needs through the black market.

These temporary licenses, a result of voter-approved Proposition 64, could be extended by lawmakers. State Sen. Mike McGuire, D-Healdsburg, has authored SB 67, which would allow an extension until state agencies can keep up with the growing demand for annual licenses.

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