

REPORT OF THE CHIEF LEGISLATIVE ANALYST

DATE: August 12, 2009

TO: Honorable Members of the Rules and Government Committee

FROM: Gerry F. Miller *G. F. Miller*
Chief Legislative Analyst

Council File No: 09-0002-S151

Assignment No: 09-07-1239

SUBJECT: Resolution (Huizar/Zine-Hahn) to SUPPORT SJR 14 (Leno).

CLA RECOMMENDATION: Adopt the attached Resolution (Huizar/Zine-Hahn) to include in the City's 2009-2010 State Legislative Program, SUPPORT for SJR 14 which calls on the federal government to end raids on medical marijuana in states such as California where voters have approved its use and urges the U.S. Congress to develop a comprehensive federal medical marijuana policy that ensures safe and legal access for any eligible patient that would benefit from this treatment.

SUMMARY

On July 17, 2009 a Resolution (Huizar/Zine-Hahn) was introduced stating the following:

- California Senate Joint Resolution (SJR) 14 (Leno) has been introduced at a time when the Obama administration has signaled a willingness to change federal policy as it pertains to dealing with California's medical marijuana law;
- SJR 14 urges the federal government to end medical marijuana raids in California and calls on Congress to create a comprehensive federal policy addressing the issue of medical marijuana that ensures safe and legal access for any deserving patient that could benefit;
- SJR 14 also calls on the federal government to end their puritanical and illogical ban on testing of the possible medical benefits of marijuana and instead encourage advanced clinical research trials into the feasibility of the therapeutic use of marijuana; and
- The County of Los Angeles already has an ordinance regulating medical marijuana dispensaries in place and the City is nearing completion of its own permanent ordinance, which will ensure that there is a baseline of expectations for the running of these facilities.

The Resolution therefore recommends that the State Legislative Program include support for SJR 14 because enforcement of medical marijuana dispensaries should be left to State and local government officials and based on facilities' compliance with local medical marijuana laws, not federal drug laws, which provide no option for medicinal use.

BACKGROUND

California's Compassionate Use Act of 1996 (also known as Proposition 215) allows for the use of marijuana for medicinal purposes. The law was designed to do the following:

- Grant Californians the right to obtain marijuana by prescription from an authorized physician and use it for medicinal purposes;
- Exempt patients and caregivers who legally obtain and use medicinal marijuana from criminal prosecution; and
- Encourage state governments and the Federal government to implement a plan for the safe and affordable distribution of medical marijuana to all patients in need.

CLA JUNE 10, 2009
PROCESSED

Passage of the Compassionate Use Act brought about an immediate conflict with the federal Controlled Substances Act (CSA) which makes it illegal to cultivate, possess, or use marijuana. In 2005, the United States Supreme Court ruled the CSA trumped the Compassionate Use Act and, as a result, upheld the legal basis for the Drug Enforcement Agency (DEA) to conduct raids, seize medicinal marijuana and arrest violators. DEA actions have been taken against individuals, dispensaries, cultivators and property owners who rent space to dispensaries.

SJR 14 requests the President of the United States and Congress to:

- End federal raids, intimidation and interference with state medical marijuana law;
- Take necessary measures to permit an affirmative defense to medical marijuana in federal court and establish legal protection for individuals authorized by state and local law to use or provide marijuana for therapeutic use;
- Adopt policies and laws to encourage advanced clinical research trials into the therapeutic use of marijuana; and
- Create a comprehensive federal medical marijuana policy that ensures safe and legal access to any patient that would benefit from it.

During the Bush administration, the DEA shut down approximately 35 medical marijuana dispensaries. President Obama stated that he supports the use of marijuana for medical purposes and has directed that federal resources not be used to circumvent state laws on this issue. Twelve other States have enacted medical marijuana laws similar to California's and face the same state-federal law conflict.

There are approximately 800 medicinal marijuana dispensaries operating in the City and a moratorium on approving new dispensaries is in effect until September of 2009. At that time, a new ordinance establishing regulations for dispensaries is expected.

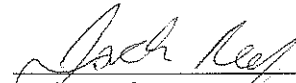
SJR 14 is supported by various drug policy organizations. There is no registered opposition to the bill.

DEPARTMENTS NOTIFIED

City Attorney
Planning Department

BILL STATUS

6/08/09	Introduced. To Com. on RLS.
6/25/09	Re-referred to Com. on Health.
7/16/09	From committee: Be adopted. To Third Reading.


Jack Reef
Analyst

09-0002-S151

JUL 17 2009

RESOLUTION RULES & GOVERNMENT

WHEREAS, any official position of the City of Los Angeles with respect to legislation, rules, regulations, or policies proposed to or pending before a local, state, or federal governmental body or agency must first have been adopted in the form of a Resolution by the City Council with the concurrence of the Mayor; and

WHEREAS, California Senate Joint Resolution (SJR) 14, introduced in June by State Senator Mark Leno, comes at a time when the Obama administration has signaled a willingness to change federal policy as it pertains to dealing with California's medical marijuana law; and

WHEREAS, U.S. Attorney General Eric Holder pledged in March of this year to end the practice during the Bush administration of conducting raids of distributors of medical marijuana, but there have been several Drug Enforcement Administration raids since this announcement; and

WHEREAS, enforcement of medical marijuana dispensaries should be left to State and local government officials and based on facilities' compliance with their compliance with medical marijuana laws, not federal drug laws, which provide no option for medicinal use; and

WHEREAS, SJR 14 urges the federal government to end medical marijuana raids in California and calls on Congress to create a comprehensive federal policy addressing the issue of medical marijuana that ensures safe and legal access for any deserving patient that could benefit; and

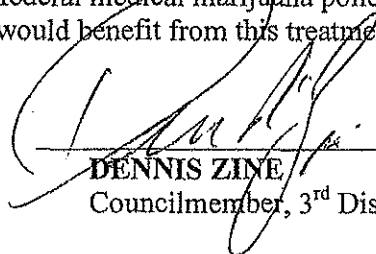
WHEREAS, the County of Los Angeles already has an ordinance regulating medical marijuana dispensaries in place and the City is nearing completion of its own permanent ordinance, which will ensure that there is a baseline of expectations for the running of these facilities; and

WHEREAS, SJR 14 also calls on the federal government to end their Puritanical and illogical ban on testing of the possible medical benefits of marijuana and instead encourage advanced clinical research trials into the feasibility of the therapeutic use of marijuana; and

WHEREAS, there are now 13 states that have authorized the use of medical marijuana and it is time to bring federal drug use policy in line with the will of the people, which is to carve out an exemption for marijuana use when it is recommended by a physician for sick patients.

NOW THEREFORE BE IT RESOLVED, with the concurrence of the Mayor, that by the adoption of this Resolution, the City of Los Angeles hereby includes in its 2009-2010 State Legislative Program SUPPORT for SJR 14 (Leno), which calls on the federal government to end raids on medical marijuana raids in states such as California where voters have approved its use and urges the U.S. Congress to develop a comprehensive federal medical marijuana policy that ensures safe and legal access for any eligible patient that would benefit from this treatment.

PRESENTED BY: 
JOSE HUIZAR
Councilmember, 14th District


DENNIS ZINE
Councilmember, 3rd District

SECONDED BY: 

ORIGINAL