



Board Caucus Meeting

Tuesday, January 18, 2021, 10:00am

This meeting was held via web conference

Meeting Minutes

CAUCUS ATTENDEES

Chair David Postman
Member Ollie Garrett
Member Russ Hauge
Dustin Dickson, Executive Assistant

GUESTS

Kathy Hoffman, Policy and Rules Manager
Chris Thompson, Director of Legislative Relations
Rick Garza, Executive Director

APPROVAL OF MEETING MINUTES

MOTION: Member Hauge moved to approve the January 11, 2022, Board caucus minutes

SECOND: Member Garrett seconded.

ACTION: Chair Postman approved the motion.

LEGISLATIVE SESSION REVIEW – CHRIS AND KATHY

Mr. Thompson: Good morning. We are running fast and furious through the now second week of session. Cutoffs are coming soon, slightly earlier than in some years past. We're not dealing with, fortunately, the volume of legislation we sometimes see, but, there's some big "stuff", so I wanted to give a quick overview and then give Kathy a chance to jump in as well.

First of all, an updated on our agency request measures. The bill regulating cannabinoids, 1668 in the House, was heard and they are planning executive action on Friday on that bill. 5547 is the Senate companion, that is scheduled for a hearing on Thursday. At this point, the Senate Committee has published two amendments to the bill – One is a change that we requested to provide for, an amendment to the current law referencing the Consumer Protection Act and synthetic cannabinoids. So, as to not create any confusion with our bill that defines "synthetically derived" cannabinoids. The other is an amendment that would allow the Department of Health (DOH) to consider rules prohibiting the inclusion of synthetically derived cannabinoids in medical cannabis products. We have submitted a request for another minor technical correction to both House and Senate Chairs and Prime Sponsors. The Sun and Craft Growers Association have asked for amendments to our bill, to essentially prohibit any synthetically derived cannabinoids. This issue has been extensively reviewed and discussed internally, as well with stakeholders, and that was not the position we took, but the Sun and Craft Growers are pushing still to revise the bill in that way and the Chair and Vice Chair are interested in knowing what the discussion about this might involve. So, we're talking about getting together with them, including Rick Garza as the

Agency Director to discuss this issue that we have previously discussed with them, and obviously did not include their request in our legislation.

Shifting to the lab standards bill, we just had the first hearing on that this morning in the House, bill 1859. That was a pretty quick hearing, 20 minutes and it was done. There was nothing but support for the bill. Department of Agriculture (AGR), Department of Ecology (ECY), DOH and the LCB all testified in support and while all agencies stressed different messages, there was a common theme, and certainly my primary focus was appreciation for the collaborative partnership in working with these other agencies in a fairly unusual multi-agency shared project. The Senate hearing on this companion measure is on Thursday, and we're planning the same approach on that one.

A couple other bills I want to mention briefly before I cancel the monologue – the bill, 5671 in the Senate, that would reorganize the Liquor and Cannabis Board, is scheduled for hearing on Wednesday. We still need further discussion about our approaches on that, and those conversations are ongoing. There's also a hearing scheduled for the Senate Committee on Thursday on a bill that would authorize, pretty broadly, hemp-derived cannabinoids to be included in marijuana products. I believe that is a WACA (Washington Cannabis Association) request, bill number 5767. We're also planning to – we've got a meeting later this morning among our staff to make sure we understand all the implications of this bill. It appears to have negative or adverse implications for both of our agency request measures. I mean, you might be surprised about the lab bill, but I think what I'm hearing so far is that by putting current lab accreditation rules in statute from the WAC, that would limit the agency's ability to do anything on this, curtail our authority and freeze lab standards and rules in place where they are right now when we're working toward a major step forward with a new program.

We also have...

Chair Postman: Chris, can you pause for one second and take questions? Member Hauge, go ahead.

Member Hauge: Has anybody yet in hearings, or before the legislature, pointed out the connection between the bill to allow hemp into the regulated market and the bill we just heard about today to essentially do away with the Board's enforcement authority?

Mr. Thompson: There hasn't been public discussion that I'm aware of, Board Member Hauge, about the hemp-derived cannabinoid allowances in 5676, that I'm aware of. We can loop back to that and have further conversation, I'd like to understand some more about what you might suggest in that regard. But, I don't think it's happened yet.

Chair Postman: There hasn't been a hearing yet, on either of the bills we were just talking about.

Mr. Thompson: Right.

Chair Postman: Those will come up this week though. Can you just confirm the number? I thought you said it was 5767, the hemp-derived bill.

Mr. Thompson: Did I misspeak? It is 5767.

Chair Postman: Thank you, that's fine. Go ahead, Chris.

Mr. Thompson: We have been having meetings with a number of legislators and those discussions have been focused on other bills, not yet on this one, but once we have a good, solid understanding of the implications of that legislation and have compared notes on the various analysis from our different divisions then we'll certainly be discussing that in future meetings.

I just wanted to mention two other bills really quickly. The Governor has executive request legislation to approve a major effort in reinvesting in communities. 5706 is the Senate bill number, and the House companion escapes me, but we're working with Ollie on potential on focus for testimony in support of the Governor's effort on that – both House and Senate bills will be heard Wednesday morning, but there should be enough of a time lag between the two to allow Ollie to make both meetings. That's an issue where the LCB has done some groundwork, that we've handed off to the Governor's Office and we want to applaud the Governor's leadership in proposing a major community reinvestment particularly in areas disproportionately and adversely affected by the war on drugs, and the enforcement of drug laws.

Finally, I want to mention House bill 1710 – that is the bill creating a cannabis commission. We've been very involved with the Cannabis Alliance who is promoting this legislation. And, more recently also with other agencies and the Prime Sponsor, Representative Shewmake from the 42nd district up in Whatcom County. After a meeting one evening last week, AGR took the lead in drafting some changes to that bill. We think it basically addresses the concerns that we had as an agency. Just two examples: one is, the original bill's language on the purpose and roll of the commission read as potentially being in the same area where we do some of our work, thus raising the spectrum of possibility of some confusion or difference in what we do with, say, education and training of licensees and the education that the commission would do for producers. We think there are a number of changes the bill that address this concern. We also are pleased that there has been an agreement to provide for full reimbursement for LCB costs in implementing this effort. That was already in there for AGR and they've added us so our fiscal not on this should now go to zero. I think they are trying to move toward executive session on this on Friday.

So, that's not everything, but it's the highlights of areas where we've been particularly active. I'd like to invite Kathy to jump in, or if there are questions for me I'll take a shot.

Chair Postman: The one thing I think would be useful, and Ms. Hoffman, tell me if – tell me how far along you are in the 5767 reading, but is there more you could share? I haven't seen the bill, or really been able to talk to anybody about it. This is the WACA alternative to our THC regulation bill, right?

Ms. Hoffman: It is, correct. And there are some challenges that that bill presents to us in thinking about it might be implemented. The definition of marijuana has not changed, from my recollection, is that correct Chris?

Mr. Thompson: Which definition?

Ms. Hoffman: The definition of marijuana did not change. I'm thinking off the top of my head, but, I think there are some challenges for us in terms of our regulatory authority. I don't think it expands our authority enough to be able to effectively respond to some of the concerns we heard over the summer.

The other think that is challenging is, and I think Chris alluded to this, placement of testing standards in statute. That removes our ability to be able to adjust if we need to, down the road, and it takes, essentially, the proposed rules that are scheduled for hearing on February 2, and puts them in statute and makes changes to them – which makes the challenge there, is that if the rules are put in statute, anything we would need for flexibility to make a minor change would take legislative action. So, those are things that came to my mind in reviewing that piece of legislation. And again, we're going to explore this more deeply today, but those were the things that came to my attention.

Mr. Thompson: I'm reluctant to say a lot more yet, with our analysis not having been completed. But, we'll get more – we have a meeting at noon today to bring people together, take a look at what we already see in the bill and take stock of where the primary concerns would be.

Chair Postman: But, the main difference is – surmising here – is that their bill would allow for synthetically derived THC to be sold by 502 stores. The agency’s bill would not, right? That’s the main difference, or am I missing something?

Mr. Thompson: The agency’s bill doesn’t have a prohibition, it just has a really strict oversight regimen for reviewing and considering before allowing any synthetically derived cannabinoids.

Chair Postman: I thought – we’ve been through this so many times – I’m surprised I’m not getting it. I thought that was true for non-impairing, but for impairing THC. So your telling me that our bill would allow the Board to approve synthetically derived THC that is impairing?

Mr. Thompson: Not if it comes from hemp.

Chair Postman: Right, that was my question. Hemp-derived, synthetically derived, THC...

Mr. Thompson: Cannabis processors could conceivably produce that compound and add it to a marijuana product, whereas, hemp producers and processors would not...

Chair Postman: So let’s go back – sorry, let me go back to the question. Our bill would prohibit someone taking hemp and turning it into THC in a laboratory, does the WACA bill allow for that process?

Mr. Thompson: That is my understanding. What I would add is that our bill would allow hemp producers to generate CBD and add CBD as an additive to marijuana products.

Chair Postman: Non-impairing?

Mr. Thompson: And, any other non-impairing additives.

Chair Postman: Right. And so, what I’m trying to figure out in my own head really is, there is a lot of, frankly it gets lost in the disagreements, but there is a lot of agreement out there, I think, about what we’re trying to do – which is really, the delta-8 issue, stopping the unregulated market of those products – which we’ve heard a lot about from local governments and public health – I think there’s agreement about the additive question, the CBD, and the non-impairing piece. I think where the divide comes, is over turning hemp into impairing THC, and we have one bill that would stop it and one bill that, again, I’m surmising, would allow it. Is that right?

Mr. Thompson: Yes, and there’s a lot more to the bills as well, but yes, I think you correctly described that.

Chair Postman: Ok, I was just trying to get that part. Member Hauge?

Member Hauge: If I may – If I’m understanding this, Chris, and I know there’s a lot of details and twists and turns in any piece of legislation, but broad outline – the LCB, in its request legislation, is not attempting to change the status quo, where CBD derived from hemp can be used as an additive provided that CBD remains a non-impairing compound of the hemp plant, correct?

Mr. Thompson: That is correct. However, we are using that model to add, not just CBD but other non-impairing cannabinoids as well.

Member Hauge: Understood. Let’s not get too far into the weeds, here. Now, the essential difference as I understand it, is that the WACA bill would essentially obviate the canopy – that there would be no maximum limit on the amount of cannabis in our market because, under that bill, hemp from God-knows-

where, could come into our system and be turned into a cannabis impairing product and pushed into the market as distillate where it would supplant the distillate products being made right now from licensed producers and processors. Is that accurate?

Mr. Thompson: Yes.

Chair Postman: Ms. Hoffman, in your reading of the bill is there anything in there to counter that? Is there any traceability piece or limit piece or anything that would balance what Member Hauge was just talking about?

Ms. Hoffman: We haven't detected that yet. Again, we're going to analyze further, but my first reading of it indicates that there are no traceability standards there.

Chair Postman: Ok, or canopy restrictions on total amount of production.

Ms. Hoffman: Correct.

Chair Postman: Thank you. Any other questions for either of our staff? Hearing none, Chris – I'm sure you have other things you need to be doing. We appreciate the update and look forward to further discussion about this and the other bills too. Thank you both for taking the time today to bring us up to date.

Mr. Thompson: Sorry we're not completely there yet on 5767...

Chair Postman: That's fine.

Mr. Thompson: ...we are meeting at noon today; we'll loop back with you after that.

Chair Postman: Appreciate that, thank you and good luck

Mr. Thompson: Thank you

Ms. Hoffman: Thank you.

Chair Postman: Next up, Director Rick Garza for any other agency updates.

OTHER AGENCY UPDATES – RICK

Mr. Garza: Mr. Chairman, Board members and staff. I had sent a letter to Dustin this morning, Chairman, that I didn't have anything further to add than the information that I shared last Wednesday. A lot of the information that Chris has provided has given you an update of where we are on bills that are before us, that we heard last week, that we will hear and testify to this week, and recognizing that there is only just a little over two weeks left for committee hearings. That's where we're really trying to focus our time, and we thank the Board Chair for his involvement and assistance with that effort. Thank you.

Chair Postman: Thanks. That takes us to our last item.

BOARD MEMBER AND EXECUTIVE ASSISTANT REPORTS

Chair Postman: I will note that we will not have a Board meeting tomorrow, so our next gathering will be a week from today for Board Caucus again. Anything for the good of the order from the other Board members? Hearing none, with that we will adjourn the Board Caucus for January 18 and see you all in a

week from now. Have a good week.

Meeting adjourned at 10:26pm.

Minutes approved this 25th day of January, 2022.



David Postman
Board Chair



Ollie Garrett
Board Member



Russ Hauge
Board Member

Minutes Prepared by: Dustin Dickson, Executive Assistant to the Board