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CSAC MEDICAL MARIJUANA POLICY

Proposition 215 (Prop 215), the Compassionate Use Act of 1996, provides certain legal protections, including exemption from criminal prosecution, for qualified patients and caregivers that possess or cultivate marijuana. In conjunction with Prop 215, the Legislature passed the Medical Marijuana Program Act (MMPA, 2003), which extends certain legal protections to those that associate to collectively or cooperatively cultivate marijuana for medical purposes. Almost immediately following the passage of the ballot measure, local governments faced various uncertainties with implementation and regulation related to the legal and illegal usage of medical marijuana. Issues have risen regarding land use and zoning, environmental problems and public safety and law enforcement issues, to name a few. In the absence of comprehensive statewide regulatory program, many jurisdictions have passed local measures meant to regulate marijuana dispensaries and cultivation, to varying degrees.

CSAC believes that the constitutional police powers of counties to protect the health, safety, and general welfare of the public authorizes counties to take actions to address what an elected Board of Supervisors legislatively determines to be the negative secondary effects of medical marijuana dispensaries and cultivation. The proliferation of such dispensaries and cultivation has created a variety of problems in many areas of the State. Counties must be able to enact prohibitions or regulations in the face of threats to the public health, safety and general welfare. Such decisions represent legislative judgments made by locally elected legislative bodies about the wisdom and need for local control over a particularly vexing and unusual land use. Under well settled constitutional separation of powers principles, deference must be afforded to the legislative judgments made by locally elected officials, who are in the best position to evaluate local conditions, community needs, and the public welfare. Accordingly, CSAC believes that any legislation to develop a statewide program for the regulation of medical marijuana dispensaries and cultivation must allow individual local governments the discretion to either adopt that program in full, to modify the program as they see fit, or to opt out of the program completely.

In addition, the cultivation of marijuana is often accompanied by land use and operational activities such as clearing of land, grading, road-building, water withdrawals from streams and application of herbicides, pesticides and fertilizers. These activities are routinely regulated and enforced by Federal, State and local agencies when they are associated with industries such as timber, ranching or farming, so as to reduce their potential impacts on the environment. CSAC believes responsible agencies should be given clear guidance and adequate resources to regulate and enforce existing environmental laws when they are associated with the cultivation of marijuana. CSAC also supports a requirement that state agencies coordinate with local governments to ensure uniform application in enforcement efforts.