

# SENATE JUDICIARY COMMITTEE

## STATEMENT TO

### **SENATE, No. 2766**

with committee amendments

# STATE OF NEW JERSEY

DATED: MARCH 20, 2023

The Senate Judiciary Committee reports favorably, and with committee amendments, Senate Bill No. 2766.

This bill revises the restrictions that apply to ownership of or investment in certain cannabis establishments.

More specifically, the bill, as amended, would provide that an investor, investor group, or fund that provides significant financial or technical assistance or the use of intellectual property, or a combination thereof, to an applicant for a personal use cannabis retail license that has been certified as a minority or women's business or is a disabled-veterans' business, may own up to a 35 percent interest in up to seven entities that have been issued a cannabis retail license, provided that each such retail license holder is also certified as a minority or women's business or is a disabled-veterans' business. The bill would also allow an entity issued a personal use cannabis cultivator, manufacturer, or retail license, or a medical cannabis alternative treatment center, or an individual associated with the ownership or management of such entity or center, to invest in or participate in an investor group or a fund as described above with respect to supporting certified personal use cannabis retailers or medical cannabis alternative treatment centers.

Current law already permits such investor-ownership arrangements for minority, women's, and disabled-veterans' medical cannabis dispensary businesses, see P.L.2021, c.252, and the bill would expand this to allow an entity issued a medical cannabis cultivator, manufacturer, or dispensary permit, or an individual associated with the ownership or management of such medical entity, to invest in or participate in an investor group or a fund in order to support certified personal use cannabis retailer businesses in addition to supporting medical alternative treatment centers.

The bill would require that the terms of the agreement for the provision of significant financial or technical assistance or use of intellectual property, whether provided in the form of equity, a loan, or otherwise, including interest rates, returns, and fees, are commercially reasonable based on the terms generally provided to comparable

businesses. The terms of the agreement could include performance, quality, and other requirements as a condition of providing the significant financial or technical assistance or the use of intellectual property.

The bill provides that an applicant for a cannabis retail license that receives significant financial or technical assistance or the use of intellectual property would be required to pay back the full value of the financial or technical assistance or intellectual property provided, plus any applicable interest and fees, within a specified number of years depending on the value of the assistance or intellectual property. The time period would be: not less than five years after the date of the agreement if the full value is less than \$100,000; not less than seven years after the date of the agreement if the full value is between \$100,001 and \$250,000; not less than 10 years after the date of agreement if the full value is between \$250,000 and \$500,000; and, subject to any terms and conditions imposed by a lender, not less than 10 years after the date of the agreement if the full value is greater than \$500,000.

An investor, investor group, or fund that has acquired an ownership interest in one or more retail establishments as authorized under the bill would be permitted to maintain the ownership interest after the full value of the assistance or intellectual property provided has been repaid.

Finally, the bill provides that in no case may the controlling interest in the entity that holds a retail license revert to the investor group or fund in the event of a default or failure by the certified minority or women's business or disabled-veterans' business, and any such controlling interest may only be transferred to a certified minority or women's business or a disabled-veterans' business.

The committee amendments to the bill:

- permit an entity issued a personal use cannabis cultivator, manufacturer, or retail license, or a medical cannabis alternative treatment center, or an individual associated with the ownership or management of such entity or center, to invest in, and not just participate in, an investor group or a fund as described in the statement above with respect to supporting certified personal use cannabis retailers or medical cannabis alternative treatment centers; and

- revise the existing investor-ownership arrangements concerning certified medical cannabis businesses, to permit an entity issued a medical cannabis cultivator, manufacturer, or dispensary permit, or an individual associated with the ownership or management of such medical entity, to invest in or participate in an investor group or a fund in order to support certified personal use cannabis retailer businesses in addition to supporting medical alternative treatment centers.