

SENATE JUDICIARY COMMITTEE

STATEMENT TO

SENATE, No. 2875

with committee amendments

STATE OF NEW JERSEY

DATED: DECEMBER 14, 2020

The Senate Judiciary Committee reports favorably and with committee amendments Senate Bill No. 2875.

As amended by the committee, this bill revises the restrictions that apply to ownership of or investment in a medical cannabis dispensary and other types of alternative treatment centers.

Current law provides that, subject to certain exceptions, no entity may simultaneously hold more than one medical cannabis cultivator, medical cannabis manufacturer, or medical cannabis dispensary permit, although, effective January 2021, a single entity may hold up to one of each type of permit.

This bill, as amended, would establish a new exception to these ownership restrictions, pursuant to which 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 medical cannabis dispensary permit that has been certified as a minority or women's business or is a disabled-veterans' business, may own up to a 40 percent interest in up to 10 entities that have been issued a medical cannabis dispensary permit, provided any such dispensary permit holder is also certified as a minority or women's business or is a disabled-veterans' business.

As amended, the bill requires 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 may include performance, quality, and other requirements as a condition of providing the significant financial or technical assistance or the use of intellectual property.

As amended, the bill provides that an applicant for a medical cannabis dispensary permit that receives significant financial or technical assistance or the use of intellectual property will 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 seven years after the date of the agreement but no earlier than three years after the date of the agreement. An investor, investor

group, or fund that has acquired an ownership interest in one or more medical cannabis dispensaries as authorized under the bill will be permitted to maintain the ownership interest after the full value of the assistance provided has been repaid.

The bill provides that in no case may the controlling interest in the entity that holds a medical cannabis dispensary permit 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.

As amended, the bill allows an entity issued a medical cannabis cultivator, manufacturer, or dispensary permit, or an individual associated with the ownership or management of the entity, to participate in an investor group or a fund that meets the requirements of the bill.

COMMITTEE AMENDMENTS:

The committee amendments remove language providing that an investor group or fund operating under the provisions of the bill be formed for the sole purpose of providing financial or technical assistance or the use of intellectual property to an applicant for a medical cannabis dispensary permit.

The committee amendments allow for individual investors to provide assistance to an applicant for a medical cannabis dispensary permit, and thereby gain the ability to acquire an ownership interest in up to 10 other medical cannabis dispensary permit holders.

The committee amendments add language providing that an investor, investor group, or fund may only acquire an ownership interest in a medical cannabis dispensary permit holder under the bill if the permit holder is a certified minority or women's business or that is a disabled-veterans' business.

The committee amendments add a requirement that the technical or financial assistance or use of intellectual property must be significant to qualify the investor, investor group, or fund to qualify for the exception from the ownership restrictions set forth under current law. The committee amendments clarify that assistance provided to an applicant under the bill may be any combination of significant financial assistance, significant technical assistance, or the significant use of intellectual property.

The committee amendments add a requirement for the entity receiving financial or technical assistance or the use of intellectual property to pay back the full value of the assistance, plus interest, within seven years after the date of the agreement, but no earlier than three years after the date of the agreement. The investor, investor group, or fund will be allowed to retain any ownership interests held in a medical cannabis dispensary permit holder that were acquired under the bill after the date the full value of the assistance is repaid.

The committee amendments remove language restricting the ownership interest of a medical cannabis cultivator, medical cannabis manufacturer, or medical cannabis dispensary participating in an investor group that is providing assistance under the bill to 10 percent.

The committee amendments make various technical changes to correct typographical errors and harmonize internal terminology.