

LFC Requester:

Noah Montano

**AGENCY BILL ANALYSIS
2025 REGULAR SESSION**

WITHIN 24 HOURS OF BILL POSTING, UPLOAD ANALYSIS TO:

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{Analysis must be uploaded as a PDF}

SECTION I: GENERAL INFORMATION

{Indicate if analysis is on an original bill, amendment, substitute or a correction of a previous bill}

Check all that apply:

Original **Amendment**
Correction **Substitute**

Date 1-29-2025

Bill No: SB 152

Sponsor: Elizabeth Stefanics, Stefani Lord & Anita Gonzales
County Petition for Cannabis License Pause

Agency Name and Code Number: 420-Regulation and Licensing Department

Person Writing Eden Sayers

Short Title:

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SECTION II: FISCAL IMPACT

APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Nonrecurring	Fund Affected
FY25	FY26		
N/A	N/A	N/A	N/A

(Parenthesis () Indicate Expenditure Decreases)

REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY25	FY26	FY27		
N/A	N/A	N/A	N/A	N/A

(Parenthesis () Indicate Expenditure Decreases)

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY25	FY26	FY27	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
Total		316	276	592	Part Recurring /Part Nonrecurring	General Fund

(Parenthesis () Indicate Expenditure Decreases)

Duplicates/Conflicts with/Companion to/Relates to:
Duplicates/Relates to Appropriation in the General Appropriation Act

SECTION III: NARRATIVE

BILL SUMMARY

Synopsis: Senate Bill 152 (SB152).

SB152 proposes to amend the Cannabis Regulation Act (CRA) by adding a new section that allows county governments to request a two (2) year moratorium on the issuance of new cannabis producer licenses within their jurisdiction. A county's board of commissioners may vote to petition the Cannabis Control Division (CCD) of the Regulation and Licensing Department (RLD) to impose the moratorium, which may apply to commercial cannabis production or commercial and medical cannabis production. The county must provide public notice of its petition and submit it to the CCD within ten (10) days of approval. The CCD is required to tender a decision on the petition within ten (10) days after receiving the petition, either approving or denying it. If the petition is denied, the CCD must issue an order of denial that provides detailed findings and conclusions. If the petition is approved, the CCD will suspend the issuance of new producer licenses for the designated period. Counties may also petition the CCD to terminate the moratorium early if they determine it is no longer necessary.

SB152 does not specify an effective date for the changes in law proposed in the bill, so if the bill were passed into law during the 2025 Session, the effective date would be June 20, 2025.

FISCAL IMPLICATIONS

From a regulatory standpoint, managing moratoriums across multiple counties is expected to require significant tracking, reporting, and oversight. Depending on the number of petitions submitted to the CCD from the counties, it may be necessary for the CCD to implement new administrative processes, staffing, and data systems to monitor moratorium statuses, increasing operational complexity.

The short 10-day deadline for final decisions by the CCD on moratorium petitions would require immediate workload prioritization for department personnel when a petition is received. Staff of the CCD involved in the review of these petitions would include the division's attorneys and senior managers including the CCD Division Director. The necessity to push the review of these petitions to the top of the division's priority list would likely impact the CCD's ability to complete other required business functions on time and can be expected to involve additional expenses for the CCD. The expenses will include contracting for professional services including legal research, advice and document drafting, as well as professional market analysis research and reports. Additionally, added costs for staff overtime hours devoted to the petition reviews can reasonably be expected in order to complete proper research and review within the very short 10-day deadline. As the bill does not identify the criteria the CCD is to follow in its decision-making, the CCD will

be required to develop a well-reasoned, factually-based criteria to be followed when reviewing and making decisions on petitions filed by counties. Developing that criteria, and then following the requirements of the criteria, will be critical to the CCD being able to avoid decisions made on moratorium petitions being overturned as arbitrary and capricious when appeals on decisions are taken to the district court. It will be necessary for the CCD to draft and adopt administrative rules defining the review criteria for county petitions for moratorium, which means completing the time-consuming rulemaking process mandated by the State Rules Act. To reduce the likelihood of legal challenges to the criteria developed for reviewing HB152 petitions, the development of the administrative rules setting the criteria will need to include market research, engagement with industry stakeholders and county officials, and related research on justification for when a moratorium should be implemented. Throughout that rulemaking development process, it is likely the CCD will receive many media inquiries and public comments, further increasing staff workload. Finally, if a moratorium on new producer licenses is approved for a county, there would be a potential for less licensing fee revenue and Cannabis Excise Tax revenue being received from that county than if a moratorium had not been imposed.

- RLD implemented a new software program in 2024 for applicants and licensees to apply and renew licenses online via Salesforce. The current software has been specifically built for each cannabis license type issued by the CCD. Any time the software requires changes the administrators of Salesforce require RLD to pay an “enhancement” fee for each change. The RLD would likely require enhancements to this existing software to monitor and track the locations where moratoriums are in effect so that new license applications are not submitted for those locations. Based on the average cost of prior enhancement contracts, forty thousand dollars (\$40,000.00) must be appropriated from the general fund to cover the costs for enhancements that would monitor and track the moratoriums by County to ensure new applications are not accepted in the system.
- The RLD would need to contract for a County specific demand study each time a Petition for a moratorium is received by the CCD for consideration. The demand study cost would vary by County based on the necessary recruitment size, the amount of analysis and the modeling desired, each County specific demand study may cost up to nine thousand dollars (\$9,000.00). Two hundred and ninety-seven thousand dollars (\$297,000.00) would need to be appropriated to cover the cost of a county specific demand study should all thirty-three (33) counties in New Mexico submit a petition for a moratorium pursuant to SB152. Using an estimate of just four (4) counties submitting a moratorium petition each year would mean an appropriation of not less than thirty-six thousand dollars (\$36,000) per fiscal year would be required to cover demand study expenditures.
- The RLD anticipates the need to engage in professional services contracts for outside counsel at \$60,000.00 for each County Petition that is received. These contracts will be required to manage the processing of the moratorium Petitions and the associated legal challenges. While there is considerable uncertainty surrounding the number of county petitions that may be received, using the estimate of just four (4) petitions each year would require an appropriation of two hundred and forty thousand dollars (\$240,000) each fiscal year for professional services contracts.

SIGNIFICANT ISSUES

The bill presents significant legal, administrative, and financial challenges for the CCD. It requires

the CCD to approve or deny county moratorium petitions without providing decision-making criteria, which could lead to ambiguity, inconsistent rulings, and legal disputes. The 10-day decision window would likely prohibit the CCD from being able to perform meaningful market analysis or stakeholder consultation on individual petitions. Each decision would likely face legal challenges from industry stakeholders and counties, alongside political pressure and media scrutiny.

Granting the CCD the authority to impose a countywide moratorium on new producer licenses also may raise concerns about overreach and market control. The CCD was established to regulate and oversee the statewide cannabis industry. Empowering the CCD to halt cannabis production in individual counties, without clear statutory criteria, effectively expands the CCD's authority significantly beyond the limits of the current provisions of the Cannabis Regulation Act. This level of discretion could create unintended consequences, such as favoring existing license holders by preventing new competition, distorting local market dynamics, or interfering with business investment decisions. While the individual county commissions would be directly involved in the decisions to file petitions seeking moratoriums for their counties, the final decision-making on whether a moratorium would be granted would like with the CCD. In addition, the power to approve or reject moratorium requests risk politicizing the CCD's role, exposing it to political pressure, lobbying, and legal challenges from both industry stakeholders and local governments.

SB152 allows for a two-year moratorium but does not specify what happens at the end of that period. The bill is silent on whether a county can renew a moratorium, whether a waiting period is required before submitting a new petition, or whether multiple consecutive moratoriums are permitted. This ambiguity could lead to perpetual licensing freezes in certain counties, creating uncertainty for businesses, potential supply chain disruptions, and conflicts with broader state cannabis policy goals.

PERFORMANCE IMPLICATIONS

SB152 presents performance challenges for the CCD due to the potential volume and complexity of county moratorium requests. With 33 counties in New Mexico, the CCD could face multiple simultaneous petitions for moratoriums, straining administrative capacity and regulatory oversight, especially considering the 10-day deadline for the CCD to approve or deny each request. An argument could be made that the short review deadline could lead to rushed and inconsistent decision-making.

ADMINISTRATIVE IMPLICATIONS

See the "Performance Implications" section, above.

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

SB152 does not clarify how moratoriums would impact pending license applications. This could create conflicts between current applicants and newly imposed restrictions, leading to disputes over whether applications submitted before a moratorium should be honored.

Implementation of the bill may also create conflict with §26-2C-6 (N) NMSA 1978, which authorizes the CCD to take steps to address a shortage of cannabis supply in the medical cannabis program.

Pursuant to §26-2C-12 (B)(2) NMSA 1978, a local jurisdiction shall not completely prohibit the operation of a licensee.

TECHNICAL ISSUES

See the “Conflict, Duplication, Companionship, Relationship” section, above.

OTHER SUBSTANTIVE ISSUES**ALTERNATIVES**

It would be preferable for SB152 to specify a clear criterion for the CCD to utilize when making a determination on whether to approve or deny a petition submitted by a county for a moratorium. A statutorily mandated criteria for the CCD to follow in its decision-making would significantly reduce the likelihood of appeals of decisions being taken to the courts and such decisions being overturned by the courts.

**WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL
AMENDMENTS**

See concerns raised under the “Significant Issues” and “Alternatives” sections, above.