

LEGAL SERVICES

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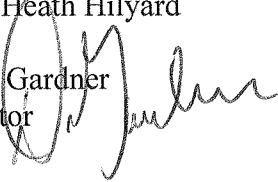
MEMORANDUM

March 4, 2015

SUBJECT: Conceptual Amendment to CSHB 75(CRA)
(Work Order No. 29-LS0345\I)

TO: Representative Cathy Tilton
Chair of the House Community and Regional Affairs Committee
Attn: Heath Hilyard

FROM: Doug Gardner
Director



Mr. Hilyard of your office called after receiving Legislative Counsel Hillary Martin's memorandum of March 3, 2015, addressing a conceptual amendment that was made to the definition of "marijuana club" in CSHB 75(CRA); Work Order No. 29-LS0345\I.

The concern that Ms. Martin correctly raised was that the conceptual amendment to the definition of "marijuana club" adds substantive material to a definition, creating what we at Legislative Legal Services call a "stuffed definition." The concern with "stuffed definitions" is that people reading the statute, that don't read the definition, are not made aware of substantive law provisions that are, as the saying goes "stuffed in the definition." I did not feel, that even with the latitude that Legislative Legal Services has to "fix" conceptual amendments, that we could fix this concern without going into the bill's substantive sections to do so; these are decisions that the committee needs to make.

The other concern with the conceptual amendment noted above, is that the amendment may create a substantive problem in the bill that the maker of the amendment did not intend, that could undercut the intent of the amendment. The concern we have is that if language in the conceptual amendment regarding persons under 21 not being allowed in a "marijuana club" is inserted in this definition relating to this type of establishment, and is not inserted in relation to other marijuana establishments, the conclusion a court or others interpreting this bill down the road may have is that the legislature inserted the restriction only where it intended it to apply, and where the legislature didn't insert the restriction, it meant to *allow* persons under 21 to accompany an adult patron, etc., into other marijuana establishments.

So, the options are: (1) we draft this provision as requested by the committee despite the issues raised; (2) we draft a substantive provision or provisions as an alternative amendment for the bill that avoids the concerns raised, and if desired, the committee could rescind its action regarding the current conceptual amendment, and replace it with

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the new amendment; or (3) a decision could be made by the committee that the amendment is not necessary in light of the current definition of "marijuana club" that requires patrons who enter to be 21 years of age or older and members.

Please advise us on how you want to proceed as soon as possible as I am aware that the bill is still in the committee's possession, and that it may be heard again on Thursday.

DDG:lem

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