

Governor casts doubt on marijuana ballot issue

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Granholtm reminds city that charter can't conflict with state law

News Staff Reporter

Gov. Jennifer Granholtm and the Attorney General's Office say that Ann Arbor's charter cannot conflict with state law that makes marijuana illegal.

In letters to city officials, Granholtm and an assistant attorney general cast doubt on whether a November ballot issue that would legalize medical use of marijuana in the city would have any legal impact.

Granholtm's letter, made public by the City Council on Tuesday night, said she did not approve of the proposed amendment to the Ann Arbor City Charter.

The amendment would direct the city to waive fines, prohibit police from enforcing the law and halt other punitive measures if it can be proved that marijuana is being used for medicinal purposes.

According to an accompanying letter from Assistant Attorney General George Elworth, the Home Rule City Act states "that no provision of any city charter shall conflict with or contravene the provisions of the general laws of this state."

"In addition," the letter continues, "city officials have the authority to enforce state laws within the city that cannot be abrogated by charter provisions."

What's unclear is just what impact that will have if voters approve the measure. Elworth concedes in his letter that the city was required to put it on the ballot after enough signatures were collected. Charles Ream, a Scio Township trustee, spearheaded the movement to get the 7,000 signatures necessary to get it on the ballot.

But now, city officials are undecided about what to do.

"There has been no decision on the city's part with what to do if this is passed," City Attorney Stephen Postema said.

"It's not at all clear to me what legal position this leaves the city in," said City Council Member Jean Carlberg, D-3rd Ward.

"The contradiction is if the public would vote yes for it and we don't enforce it, the public will not understand," Carlberg said.

"We are going to have to deal with that if it happens," Mayor John Hieftje said.

"I'll seek guidance from the city attorney and city administrator," Police Chief Dan Oates said.

The council knew there was a potential for conflicting laws. That's why they postponed voting on the ballot language for several weeks.

The council voted 7-4 July 19 to put it on the ballot. Council Members Wendy Woods, D-5th Ward; Mike Reid, R-2nd Ward; Leigh Greden, D-3rd Ward; and Marcia Higgins, R-2nd Ward, voted against it.

If the ballot initiative passes, state and federal law enforcement officers would not be prevented from arresting, charging and prosecuting someone who claims to use pot for medicinal purposes. Marijuana remains illegal under state and federal law, regardless of whether it is used, possessed or sold within the city limits.

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