

Fiscal Estimate - 2017 Session

Original
 Updated
 Corrected
 Supplemental

LRB Number 17-2457/1	Introduction Number AB-0482
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Description
 marijuana possession, regulation of marijuana distribution and cultivation, medical marijuana, operating a motor vehicle while under the influence of marijuana, making appropriations, requiring the exercise of rule-making authority, and providing criminal penalties

Fiscal Effect

State:

<input type="checkbox"/> No State Fiscal Effect	<input checked="" type="checkbox"/> Increase Existing Revenues	<input checked="" type="checkbox"/> Increase Costs - May be possible to absorb within agency's budget
<input type="checkbox"/> Indeterminate	<input type="checkbox"/> Decrease Existing Revenues	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
<input type="checkbox"/> Increase Existing Appropriations		<input type="checkbox"/> Decrease Costs
<input type="checkbox"/> Decrease Existing Appropriations		
<input type="checkbox"/> Create New Appropriations		

Local:

<input type="checkbox"/> No Local Government Costs		
<input checked="" type="checkbox"/> Indeterminate		
1. <input type="checkbox"/> Increase Costs	3. <input type="checkbox"/> Increase Revenue	5. Types of Local Government Units Affected
<input type="checkbox"/> Permissive <input type="checkbox"/> Mandatory	<input type="checkbox"/> Permissive <input type="checkbox"/> Mandatory	
2. <input type="checkbox"/> Decrease Costs	4. <input type="checkbox"/> Decrease Revenue	
<input type="checkbox"/> Permissive <input type="checkbox"/> Mandatory	<input type="checkbox"/> Permissive <input type="checkbox"/> Mandatory	

Towns Village Cities
 Counties Others
 School Districts WTCS Districts

Fund Sources Affected	Affected Ch. 20 Appropriations
<input checked="" type="checkbox"/> GPR <input checked="" type="checkbox"/> FED <input checked="" type="checkbox"/> PRO <input type="checkbox"/> PRS <input type="checkbox"/> SEG <input type="checkbox"/> SEGS	20.435(1)(a), (1)(gq), (1)(jm), (4)(a), (4)(n) and (6)(a)

Agency/Prepared By	Authorized Signature	Date
DHS/ Sara Koliner (608) 267-5147	Andy Forsaith (608) 266-7684	12/18/2017

Fiscal Estimate Narratives

DHS 12/18/2017

LRB Number	17-2457/1	Introduction Number	AB-0482	Estimate Type	Original
Description marijuana possession, regulation of marijuana distribution and cultivation, medical marijuana, operating a motor vehicle while under the influence of marijuana, making appropriations, requiring the exercise of rule-making authority, and providing criminal penalties					

Assumptions Used in Arriving at Fiscal Estimate

The bill requires the Department to: (1) establish a registry and issue ID cards for medical users of marijuana; (2) license and regulate nonprofit "compassion centers" that provide marijuana for the purposes of medical use; (3) register entities as marijuana-testing laboratories, (4) exclude THC (including marijuana) from drug testing for certain public assistance programs, and (5) promulgate new rules.

I. Registry of medical marijuana users

Individuals with debilitating medical conditions or their caregivers may apply to the Department to be permitted the legal use of marijuana for the medical condition. Under this bill, the Department must issue a registry identification card to qualifying patients who apply for inclusion in the registry by submitting to DHS a signed application, a written certification by a physician, and a registration fee of \$150 or less. The Department is required to verify the information submitted by the patient and issue the registration identification card. The card is valid for two years and may be renewed. This estimate assumes that a registration fee must be paid with each renewal.

The Department is also required under the bill to promulgate rules specifying which debilitating medical conditions or treatments would allow a patient to be included in the registry. The conditions must include cancer, glaucoma, AIDS, a positive HIV test, Crohn's disease, a hepatitis C virus infection, Alzheimer's disease, amyotrophic lateral sclerosis, nail patella syndrome, Ehlers-Danlos syndrome, and post-traumatic stress disorder. A debilitating medical condition or treatment must also include any chronic or debilitating disease that causes wasting away, severe pain, severe nausea, seizures, as well as severe and persistent muscle spasms, including the characteristics of multiple sclerosis. Any person may petition the Department to promulgate a rule to designate a medical condition or treatment as a debilitating medical condition.

In addition, the Department is required to promulgate a rule listing other jurisdictions that allow the medical use of marijuana by a visiting person or allow a person to assist with a person's medical use of marijuana. Documents issued by these other jurisdictions provide the same privileges as DHS-issued registration identification cards.

There is no way to precisely estimate the number of individuals who will apply for registration IDs upon passage of this bill. The most recent report from Minnesota's Office of Medical Cannabis states 4,017 patients are actively enrolled in the registry, or .07% of the state population. It is assumed that the percentage of card holders in Wisconsin would be similar.

The Department will have one-time costs to implement the registry program. This fiscal estimate assumes that these one-time costs must be GPR-funded, because they will be incurred before the registry is established and people submit applications and pay their fees. The one-time cost of establishing a database to house the registry for medical users of marijuana is estimated at \$400,000 GPR.

Under this bill's provisions, the ongoing costs of the registry are to be funded by fees charged to registrants held in the appropriation under 20.435 (1) (gq). Wisconsin's total population is approximately 5.8 million. If the number of people who register for medical marijuana in Wisconsin is similar to that of Minnesota, 4,240 people could register in the first year. At a fee of \$150/person, fee revenue would be \$636,000 PR every two years, assuming the same number of renewals. At a fee of \$75/person, fee revenue would be \$318,000 PR every two years. The Department will set the fee at a level sufficient to support the ongoing costs of the registry.

The Department would require 4.0 new PR FTE to administer the medical marijuana registry. A 1.0 FTE

Program and Policy Analyst – ADV and 1.0 FTE Human Services/Program Coordinator will be required to perform the duties mandated by this bill, including rule promulgation, system development management, research, application verification for individuals and registration verification for corporations, and acting as a liaison to law enforcement agencies. 2.0 FTE Office Operations Associates will also be required to perform data entry for the system and respond to inquiries from patients. In addition, approximately 0.15 FTE of an existing Chief Medical Officer position will be required to provide appropriate medical consultation to the registry. Both new and existing positions' time will need to be charged to the registry, as their existing funding cannot be used for registry activities. Including salary, fringe, and supplies, the annual cost for this FTE comes to \$287,400 PR, with a one-time office setup cost of \$10,000 GPR.

This bill also requires DHS to provide identity cards to individuals who successfully apply to be included in the registry. The cost of issuing these cards is estimated to be \$5.00 per card. Assuming approximately 4,240 individuals register, the cost of the cards will be \$21,200 PR every two years.

Ongoing system maintenance and hosting costs are estimated at \$40,000 PR annually for the registry database.

II. Dispensaries

DHS is required under this bill to provide licensing, regulation, record keeping, and security for the dispensaries. Dispensaries created by this bill are required to be licensed by DHS. The Department is to decide which and how many applicants for a license receive a license based on the convenience and preferences of treatment teams, the ability of the applicant to provide a sufficient amount of marijuana, experience of the applicant running a nonprofit organization, the preference of the governing bodies with jurisdiction over the area, the ability of the applicant to keep records confidential and maintain a safe and secure facility. Under the bill, the dispensary application fee would be \$250, and the annual fee for a registered dispensary would be \$5,000, both of which would be assigned to the appropriation under 20.435 (1) (jm).

Minnesota, which approved medical marijuana in 2014, currently has eight distribution facilities. Adjusting for population, the Department estimates that ten facilities will apply to become dispensaries in year one, leading to expected revenue of \$52,500 PR in year one, and \$50,000 thereafter. There will be an increased cost to the Department as the result of an additional workload regarding these dispensaries including initial licensure activities, complaint investigation, and the preparation of administrative rules. No provision is made in the bill for the Department to inspect facilities once they are licensed. It is assumed that the Department would make inspections only if there are complaints about a dispensary. The Department will likely fulfill the requirement to provide security for by verifying, during inspections, that security measures are in place in the dispensaries.

The Department estimates that regulation of dispensaries will require 1.0 new PR FTE Food and Dairy Sanitarian Inspector, at an annual cost of \$79,100 PR and a one-time cost of \$2,500 GPR.

III. Testing Laboratories

The bill requires a dispensary to have all marijuana tested for mold, fungus, pesticides and other contaminants. A dispensary may not sell, distribute or deliver marijuana that tests positive for mold, fungus, pesticides or other contaminant if the contaminant or level of contaminant is identified by the testing laboratory to be potentially unsafe to a patient's health.

This bill also requires DHS to register entities as marijuana-testing laboratories. These laboratories are required to test marijuana for potency and contaminants, conduct research related to the medical use of marijuana, and provide training to individuals with registry ID cards, treatment teams, and employees of compassion centers.

No provisions are made in the bill for the Department to inspect or regulate these laboratories after they are registered. The Department estimates that each of the estimated 10 dispensaries will submit an application to be registered as a testing laboratory in year one. The Department estimates that registration of these laboratories will require an additional 0.5 PR FTE Quality Assurance Program Specialist-Senior to handle the increased workload from the new registration requirements. This estimate assumes 100 hours to process each of the ten applications. The annual cost is estimated at \$45,300 PR with a one-time cost of \$2,500 GPR. This partial position would need to be funded with the PR generated from collected registration fees in 20.435 (1) (jm). The Department cannot absorb these additional costs with existing GPR or PR sources.

IV. Exclusion from Public Assistance Drug Testing

This bill would exclude THC from testing for controlled substances for childless adults on Medicaid, individuals who have been referred to the FoodShare Employment and Training program, and individuals who are applying for FoodShare after having been convicted of drug related felonies within the past five years. Wisconsin is currently seeking federal approval to implement drug screening and testing for certain Medicaid and Food Share participants. If such approval is obtained, the Department would be required to seek modifications to its state plan and/or waivers from the Centers for Medicaid and Medicaid Services and the Food and Nutrition Service in order to exclude THC from tests for these programs. The Department would require contract staff to write the waivers over six months at a cost of \$79,700 AF (\$39,850 GPR and \$39,850 FED). If the waivers are granted, the Department would incur additional costs for: (1) updating controlled substance screening questions; (2) training income maintenance workers; and (3) modifying contracts with drug testing labs. The net effect of these additional costs and potential savings is indeterminate at this time. If the waivers are not granted, state statutes would likely be in conflict with federal law, and federal agencies may invoke the Supremacy Clause of the United States Constitution.

V. Rules Promulgation

The bill requires DHS to promulgate rules to allow entities to grow marijuana and distribute marijuana to dispensaries. DHS is also required to promulgate rules specifying how a parent or a guardian may apply for a registry identification card for a child, how the Department will verify the truthfulness of information submitted on an application card, the circumstances under which DHS may approve or deny an application, renew, revoke, or allow a person to reapply after an application is denied and the process to ensure that out-of-state identification cards are valid.

In addition, it is estimated that it would require 1,000 hours of staff time at a cost of \$60,000 GPR on a one-time basis to develop the rules for this bill. These costs must be funded with GPR because they will be incurred before the program is implemented. This cost cannot be absorbed by the Department.

Due to the lack of precedent for the legalization of formerly illicit drugs in Wisconsin, there is little data on the effect this would have on the state's population, and so the Department is not able to estimate the fiscal impact on local health departments.

Long-Range Fiscal Implications

Fiscal Estimate Worksheet - 2017 Session

Detailed Estimate of Annual Fiscal Effect

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I. One-time Costs or Revenue Impacts for State and/or Local Government (do not include in annualized fiscal effect): One-time costs included registry development (\$400,000 GPR), MA waiver writing contract staff (\$39,850 GPR and \$39,850 FED), rules promulgation (\$60,000 GPR), and office setup costs (\$15,000 GPR)		
II. Annualized Costs:	Annualized Fiscal Impact on funds from:	
	Increased Costs	Decreased Costs
A. State Costs by Category		
State Operations - Salaries and Fringes	\$376,000	\$
(FTE Position Changes)	(5.2 FTE)	
State Operations - Other Costs	115,800	
Local Assistance		
Aids to Individuals or Organizations		
TOTAL State Costs by Category	\$491,800	\$
B. State Costs by Source of Funds		
GPR		
FED		
PRO/PRS	491,800	
SEG/SEG-S		
III. State Revenues - Complete this only when proposal will increase or decrease state revenues (e.g., tax increase, decrease in license fee, ets.)		
	Increased Rev	Decreased Rev
GPR Taxes	\$	\$
GPR Earned		
FED		
PRO/PRS	379,900	
SEG/SEG-S		
TOTAL State Revenues	\$379,900	\$
NET ANNUALIZED FISCAL IMPACT		
	<u>State</u>	<u>Local</u>
NET CHANGE IN COSTS	\$491,800	\$
NET CHANGE IN REVENUE	\$379,900	\$
Agency/Prepared By DHS/ Sara Koliner (608) 267-5147		
Authorized Signature Andy Forsaith (608) 266-7684		Date 12/18/2017