

Fiscal Estimate - 2019 Session

Original
 Updated
 Corrected
 Supplemental

LRB Number 19-3999/1	Introduction Number SB-377	
Description marijuana possession, regulation of marijuana distribution and cultivation, medical marijuana, operating a motor vehicle while under the influence of marijuana, requiring the exercise of rule-making authority, granting rule-making authority, making an appropriation, and providing a penalty		
Fiscal Effect		
State: <input type="checkbox"/> No State Fiscal Effect <input type="checkbox"/> Indeterminate <input type="checkbox"/> Increase Existing Appropriations <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"/> Decrease Existing Appropriations <input type="checkbox"/> Decrease Existing Revenues <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No <input checked="" type="checkbox"/> Create New Appropriations <input type="checkbox"/> Decrease Costs		
Local: <input type="checkbox"/> No Local Government Costs <input type="checkbox"/> Indeterminate 1. <input checked="" type="checkbox"/> Increase Costs 3. <input type="checkbox"/> Increase Revenue <input checked="" 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 5. Types of Local Government Units Affected <input checked="" type="checkbox"/> Towns <input checked="" type="checkbox"/> Village <input checked="" type="checkbox"/> Cities <input checked="" type="checkbox"/> Counties <input type="checkbox"/> Others <input type="checkbox"/> School Districts <input type="checkbox"/> WTCS Districts		
Fund Sources Affected Affected Ch. 20 Appropriations <input type="checkbox"/> GPR <input type="checkbox"/> FED <input checked="" type="checkbox"/> PRO <input type="checkbox"/> PRS <input type="checkbox"/> SEG <input type="checkbox"/> SEGS 20.115(7)(ge)		
Agency/Prepared By DATCP/ Jason Gherke (608) 224-4748	Authorized Signature Jason Gherke (608) 224-4748	Date 9/17/2019

Fiscal Estimate Narratives
DATCP 9/17/2019

LRB Number	19-3999/1	Introduction Number	SB-377	Estimate Type	Original
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Assumptions Used in Arriving at Fiscal Estimate

Current law prohibits a person from manufacturing, distributing, or delivering marijuana; possessing marijuana with the intent to manufacture, distribute, or deliver it; possessing or attempting to possess marijuana; using drug paraphernalia; or possessing drug paraphernalia with the intent to produce, distribute, or use a controlled substance. This bill changes state law so that state law permits both recreational use of marijuana and medical use of marijuana.

With respect to recreational use of marijuana, the bill changes state law to permit a Wisconsin resident who is at least 21 years of age to possess no more than two ounces of marijuana and to permit a nonresident of Wisconsin who is at least 21 years of age to possess no more than one-quarter ounce of marijuana. The bill creates a process by which a person may obtain a permit to produce, process, or sell marijuana for recreational use and pay an excise tax for the privilege of doing business in this state. The bill requires a person to obtain separate permits from the Department of Revenue to produce, process, distribute, or sell marijuana, and requires marijuana producers and processors to obtain additional permits from the Department of Agriculture, Trade and Consumer Protection(DATCP). The requirements for obtaining these permits differ based on whether the permit is issued by DOR or DATCP but, in general, a person may not obtain such a permit if he or she is not a state resident, is under the age of 21, or has been convicted of certain crimes; in addition, a person may not operate under a DOR permit within 500 feet of a school, playground, recreation facility, child care facility, public park, public transit facility, or library and may not operate as a marijuana producer under a DATCP permit within 500 feet of a school.

Under the bill, a permit applicant with 20 or more employees may not receive a permit from DATCP or DOR unless the applicant certifies that the applicant has entered into a labor peace agreement with a labor organization. The bill also requires DATCP and DOR to use a competitive scoring system to determine which applicants are eligible to receive permits. Each department must issue permits to the highest scoring applicants that it determines will best protect the environment; provide stable, family-supporting jobs to local residents; ensure worker and consumer safety; operate secure facilities; and uphold the laws of the jurisdictions in which they operate. Each department may deny a permit to an applicant with a low score. The bill also requires DATCP to develop a logo that can be used on labeling and that is distinguishable from a medical marijuana logo. The bill also creates a medical marijuana program at the Department of Health Services and makes numerous changes to the controlled substances act.

The bill will increase DATCP costs. The bill requires DATCP to establish a competitive scoring system for permit applications, which will require staff time to develop. The application review process will also be complex as staff will have to both review applications for general completeness, evaluate and score them, and then issue permits all while coordinating with the Department of Revenue who will also be reviewing and issuing permits to the same permit applicants. It will take significant staff time to conduct detailed background checks that have many disqualifying violations. Also, substantial staff time will be needed for outreach and education about recreational marijuana permits to law enforcement, local government and the public. DATCP will need to develop a new or modify an existing IT system to accept and enter permit applications and track permit compliance. The bill also requires DATCP to train marijuana producers and processors, consult with local governments, and enforce licenses, including developing and implementing an entire compliance and enforcement mechanism. Logo development can be completed with existing graphics staff resources.

As written, the bill includes an appropriation, but no position authority. However, based on the department's

experience with industrial hemp, the initial start-up of a recreational marijuana program will require a minimum of 1.0 FTE LPPA, 1.0 FTE program manager, and 1.0 FTE regulatory specialist due to the complexities and requirements of the law. Once a certain level of permits applications are received and issued, additional staff—including additional licensing staff and dedicated field-based enforcement and public information staff—will be needed to enforce program requirements. The department will have to write rules to implement the program, which can be handled by existing staff.

The bill allows DATCP to charge marijuana producers and processors a \$250 application fee and an annual fee of \$2,000 for processors and an annual fee ranging from \$1,800 (for under 1,800 plants) to \$7,100 (for up to 10,200 plants) for producers. For producers growing over 10,200 plants the annual fee increases by \$800 for every additional 3,600 marijuana plants.

Assuming the department receives 50 processor applicants and 50 producer applicants at the minimum fee levels (NOTE: attached worksheet is based on this assumption), the revenue received in year one would be \$25,000 in one-time funds and \$190,000 in annual fees for a total of \$215,000. These fees would cover the costs of 1.0 FTE licensing and permitting associate (\$64,359), 1.0 FTE program manager (\$86,301), and 0.5 FTE regulatory specialist (\$43,194.95) which would cost approximately \$193,854 and would be 0.5 FTE below the bare minimum necessary staff to begin to administer this law. If the number of permits was half as many in each category (50 total), the fees of \$12,500 in one-time funds and \$95,000 in annual fees would only fully cover 1.0 FTE which would not meet the minimum requirements for administering a program, and if the number of permits was twice as many (200 total), the fees of \$50,000 in one-time funds and \$380,000 in annual fees would be sufficient to cover the 5.0 FTE positions discussed above for \$393,340. Additional DATCP staff will be needed if permit applications greatly exceed 200. If only the application fee is collected upfront—with the licensing fee collected after the permits were approved as is the practice in most states, the application fees generated would not even cover 1.0 FTE and would be insufficient to cover the costs of processing the applications. Because under the bill applicants have to apply for separate permits at both DATCP and DOR, it might be possible to reduce some initial administrative costs if DATCP and DOR collaborate on the application requirements for producers and processors and these permit and license applications are reviewed once.

At this point, DATCP is not able to predict the interest in becoming a marijuana producer or processor and the number of permits that will be applied for and granted in year one and beyond. As a comparison, DATCP received 345 hemp grower and processor applications in year one and over 2200 in year two. It is likely that some current hemp growers who will have experience growing cannabis in Wisconsin may switch over to or add growing of recreational or medical marijuana if the opportunity is present, so at least 100-200 permit applications—if not substantially more—in year one is likely. Based on similar programs in other states, several hundred to over 1000 permit applicants in each category is possible.

Finally, most states with recreational and medical marijuana have sophisticated IT systems used by the industry to track applicants, growers, processors, retailers and other information. The costs to develop such a system are unknown. Those costs may be funded by the license fees collected by DOR or DHS if a statewide system is developed. However, the DATCP permit fees anticipated to be collected would be insufficient to cover those development costs.

Long-Range Fiscal Implications

Long term, the costs for DATCP depends entirely on the number of producers and processors interested in participating in the recreational marijuana program. As a comparison, Colorado has 704 producers and 283 processors as of May 1, 2019; Washington State has over 1100 producers and over 1200 processors; Oregon has over 2000 producers and 560 processors; California has 120 permanent cultivation licensees and several hundred provisional cultivation licenses. Based on DATCP experience with hemp, our program would probably be similar in size of the programs in these states, particularly if permits are not limited. Permits exceeding the 200 estimated at the top range for year one will result in the need for more DATCP staff, particularly licensing and compliance staff. Oregon, for example, has 11 field-based enforcement staff for this program. There could also be complexities that develop between the recreational marijuana, medicinal marijuana and the hemp program that requires additional programmatic and compliance costs.

Fiscal Estimate Worksheet - 2019 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): There will be significant one-time IT development costs of an unknown amount.			
II. Annualized Costs:		Annualized Fiscal Impact on funds from:	
		Increased Costs	Decreased Costs
A. State Costs by Category			
	State Operations - Salaries and Fringes	\$171,799	\$
	(FTE Position Changes)	(3.0 FTE)	
	State Operations - Other Costs	48,939	
	Local Assistance		
	Aids to Individuals or Organizations		
	TOTAL State Costs by Category	\$220,738	\$
B. State Costs by Source of Funds			
	GPR		
	FED		
	PRO/PRS	220,738	
	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, etc.)			
		Increased Rev	Decreased Rev
	GPR Taxes	\$	\$
	GPR Earned		
	FED		
	PRO/PRS	215,000	
	SEG/SEG-S		
	TOTAL State Revenues	\$215,000	\$
NET ANNUALIZED FISCAL IMPACT			
		<u>State</u>	<u>Local</u>
NET CHANGE IN COSTS		\$220,738	\$
NET CHANGE IN REVENUE		\$215,000	\$

Agency/Prepared By

DATCP/ Jason Gherke (608) 224-4748

Authorized Signature

Jason Gherke (608) 224-4748

Date

9/17/2019