

Fiscal Estimate Narratives

DOR 10/25/2023

LRB Number	23-4470/1	Introduction Number	SB-0486	Estimate Type	Original
Description legalizing the possession of marijuana; medical marijuana; regulating the production, processing, and sale of marijuana; expunging or redesignating past convictions for marijuana-related crimes; equity grants; making an appropriation; and providing a penalty					

Assumptions Used in Arriving at Fiscal Estimate

Under this bill, a person who is at least 21 years old may legally possess marijuana for recreational purposes. A person of any age may possess marijuana for medical purposes. Under the bill, a person may produce, process, or sell marijuana if the person has a permit. This bill creates an excise tax for the privilege of producing, processing, distributing, or selling marijuana in this state, and 60 percent of the revenue collected from the tax is deposited into a segregated fund called the "community reinvestment fund." Under the bill, a person who may possess medical marijuana is not subject to sales or excise taxes on the purchase or use of the marijuana. The bill does not affect federal law, which generally prohibits persons from manufacturing, delivering, or possessing marijuana and applies to both intrastate and interstate violations.

The bill imposes an excise tax on a marijuana producer at the rate of 15 percent of the sales price on each wholesale sale or transfer in this state of marijuana to a marijuana processor. This paragraph applies to a microbusiness that transfers marijuana to a processing operation within the microbusiness.

The bill also imposes an excise tax on a marijuana retailer or operator of a marijuana lounge at the rate of 10 percent of the sales price on each retail sale in this state of usable marijuana, except that the tax does not apply to sales of usable marijuana to an individual who holds a valid tax exemption certificate.

The bill establishes a permit requirement for marijuana producers, processors, and retailers, subject to a competitive scoring system, and imposes an application fee of \$250 and an annual fee of \$2,000.

FISCAL EFFECT

Given that current law prohibits the manufacturing, distributing, possessing, or delivering marijuana in Wisconsin there is no state-specific data available to construct an accurate estimate. However, three midwestern states (MI, IL, MN) have legalized both recreational and medical marijuana. All three states generate revenues through a variety of permits/licensing fees and excise taxes on retail sales (medical exempted), in addition Illinois imposes an excise tax on sales by growers to retailers. Minnesota which legalized marijuana this year offers no historical data to estimate sales and tax revenues.

The department will use average marijuana sales figures for Michigan and Illinois adjusted for population size and prevalence rates to estimate the fiscal effect for Wisconsin. The estimated amounts reflect marijuana sales trends observed in the Michigan and Illinois markets in their first three years of operations.

The estimates below do not account for price disruption caused by illegal sales of marijuana. To the extent the taxes result in a final retail price that exceeds black market prices, the estimated revenue may not materialize.

Using data from the Michigan Cannabis Regulatory Agency's Statistical Report, the Illinois Department of Financial Regulation Adult Use Cannabis Sales Figures, the US Substance Abuse and Mental Health Services Administration's Prevalence Estimates 2021, the US Census Bureau 2022 population estimates, and BOTEK Analysis Corporation's medical marijuana wholesale markup (average for IL), the department estimates that an excise tax imposed on a marijuana producer at the rate of 15% of the sales price on each wholesale would result in an excise tax revenue increase of \$24.6 million in year 1, 48.6 million in year 2 and \$60.1 million in year 3.

The bill also imposes a 10% excise tax on marijuana retailers. Based on Michigan and Illinois marijuana sales, and adjusting for population and prevalence between the states, the retail tax would result in additional excise tax revenues of \$19.1 million in year 1, \$47.3 million in year 2 and \$64.9 million in year 3.

In addition to the excise tax, retailers would collect and remit the 5.0% state general sales tax on marijuana sales. State sales tax collections on the sale of marijuana are expected to yield \$9.5 million in year 1, \$23.6

million in year 2 and \$41.7 million in year 3. Assuming a county and stadium sales tax of 9.6% of the state sales tax, the department estimates county and stadium tax revenues to increase by \$0.9 million in year 1, \$2.3 million in year 2 and \$3.1 million in year 3. The city of Milwaukee will also collect additional sales tax revenues estimated at 2.5% of the state sales tax in years 1, 2, and 3 respectively of \$0.2 million, \$ 0.6 million, and \$0.8 million.

The estimates are illustrating years 1, 2 and 3 by looking at annualized figures that would need to be adjusted for an effective date that may reduce the first fiscal year collections.

Under the bill, marijuana producers, processors, and retailers are required to obtain separate permits to engage in their marijuana-related business activities at an application fee of \$250 and an annual fee of \$2,000. For illustrative purposes, assuming the department issues a total of 300 permits, fee revenue for year 1 is estimated to be \$675,000 ($300 * \$250 + 300 * \$2,000$). Further, assuming all permits are renewed, and a 20% increase in issued permits, fee revenue for FY2 is estimated to be \$615,000 ($300 * \$2,000 + 60 * \250). Actual fee revenue will depend on the number of entities that register with the department.

ADMINISTRATIVE COSTS

The department will need to update the state's tax processing system to accommodate the new tax. The Division of Technical Services (DTS) estimates onetime cost of \$401,970, and the Income, Sales, and Excise Tax Division (ISE) estimates onetime cost of \$3,692,470 for staff and equipment cash handling operations, and enforcement. Total one-time costs for the implementation of the new tax are expected to be \$4,094,440.

Administration of the new law would also require additional staff in the department. The department estimates the need for 6 revenue agents, 10 excise tax agents, 3 revenue auditors, and 1 office management supervisor at an estimated annual cost of \$4,472,200.

Long-Range Fiscal Implications

Fiscal Estimate Worksheet - 2023 Session

Detailed Estimate of Annual Fiscal Effect

Original
 Updated
 Corrected
 Supplemental

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Description legalizing the possession of marijuana; medical marijuana; regulating the production, processing, and sale of marijuana; expunging or redesignating past convictions for marijuana-related crimes; equity grants; making an appropriation; and providing a penalty	
I. One-time Costs or Revenue Impacts for State and/or Local Government (do not include in annualized fiscal effect): \$4,094,440	
II. Annualized Costs:	
Annualized Fiscal Impact on funds from:	
	Increased Costs Decreased Costs
A. State Costs by Category	
State Operations - Salaries and Fringes	\$4,472,200
(FTE Position Changes)	(20.0 FTE)
State Operations - Other Costs	
Local Assistance	
Aids to Individuals or Organizations	
TOTAL State Costs by Category	\$4,472,200
B. State Costs by Source of Funds	
GPR	4,472,200
FED	
PRO/PRS	
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	
SEG/SEG-S	
TOTAL State Revenues	\$ \$
NET ANNUALIZED FISCAL IMPACT	
	<u>State</u> <u>Local</u>
NET CHANGE IN COSTS	\$4,472,200 \$
NET CHANGE IN REVENUE	\$See text. \$
Agency/Prepared By	Authorized Signature
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	Date
	10/25/2023