

Fiscal Estimate Narratives

DOR 1/24/2022

LRB Number	21-5553/1	Introduction Number	AB-0846	Estimate Type	Corrected
Description legalizing recreational marijuana, granting rule-making authority, making an appropriation, and providing a penalty					

Assumptions Used in Arriving at Fiscal Estimate

The bill changes state law so that it allows recreational use of 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 changes state law to allow a Wisconsin resident who is at least 21 years old, or a qualifying patient, to possess no more than two ounces of marijuana and to allow a nonresident of Wisconsin who is at least 21 years old to possess no more than one-quarter ounce of marijuana. Under the bill, generally, a qualifying patient is an individual who has been diagnosed by a physician as having or undergoing a debilitating medical condition or treatment and who is at least 18 years old. The bill also eliminates the prohibition on possessing or using drug paraphernalia that relates to marijuana consumption.

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. Sixty percent of the revenue collected from the tax is deposited into a segregated fund called the "community reinvestment fund".

Under the bill "Usable marijuana" means marijuana that has been processed for human consumption and includes dried marijuana flowers, marijuana-infused products, and marijuana edibles.

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. An excise tax is imposed on a marijuana retailer 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.

No person may operate in this state as a marijuana producer, marijuana processor, marijuana distributor, marijuana retailer, or microbusiness without first filing an application for and obtaining the proper permit from the Department to perform such operations.

Each person who applies for a permit under this section shall submit with the application a \$250 fee. A permit issued under this section is valid for one year and may be renewed, except that the department may revoke or suspend a permit prior to its expiration. The annual permit fee for a marijuana producer, processor, or retailer permittee is \$2,000 for each location.

FISCAL EFFECT

Given that marijuana cultivation and possession is illegal in Wisconsin, there is no state-specific data available to construct an accurate fiscal estimate. As such, the Department of Revenue is currently not revising the State Budget Office fiscal estimate provided for the Administration's FY22-23 Budget request. The DOR continues to analyze the ongoing expansion of the marketplace in other states, and to assess the competitive environment for Wisconsin should it choose to legalize the sale and use of marijuana.

ADMINISTRATIVE COSTS

The department estimates one-time administrative costs of \$369,000 for updating the state's tax processing system to accommodate the new tax, along with \$150,900 for supplies, services, equipment, and office space in the Enterprise Services Division (ESD), \$3,920,000 for revenue agents, excise tax agents, auditors, supervisors and managers for the Income Sales and Excise Tax Division (IS&E). Total one-time/first year costs for implementation of the new tax are expected to be \$4.44 million.

Administration of the new law would require additional staffing in the department. Ongoing administrative expenses for staff and related supplies, services, equipment, and office space for ESD and IS&E are estimated at \$297,000 and \$3,635,000 respectively.

The department estimates the need for the following new positions, 9 revenue agents, 10 excise tax agents, 1 excise tax agent supervisor, 1 fraud unit specialist, 4 compliance field agents, 4 excise field auditors and 1 supervisor and 1 lead worker for the new unit.

Total on-going costs related to administration, enforcement and compliance are estimated to be \$3.93 million.

Long-Range Fiscal Implications