

FISCAL IMPACT OF PROPOSED LEGISLATION

Measure: SB 844 - 6

Seventy-Eighth Oregon Legislative Assembly – 2015 Regular Session
Legislative Fiscal Office

*Only Impacts on Original or Engrossed
Versions are Considered Official*

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Measure Description:

Outlines responsibilities and authorities of the Oregon Health Authority (OHA) related to Oregon's medical marijuana program, as well as for the testing, labeling and packaging of marijuana products.

Government Unit(s) Affected:

Oregon Liquor Control Commission (OLCC), Board of Pharmacy, Oregon Department of Agriculture (ODA), Department of Revenue (DOR), Oregon Health Authority (OHA)

Summary of Expenditure Impact:

See Analysis below

Local Government Mandate:

This bill does not affect local governments' service levels or shared revenues sufficient to trigger Section 15, Article XI of the Oregon Constitution.

Analysis:

SB 844-6 replaces the original bill and outlines responsibilities and authorities of the Oregon Health Authority (OHA) related to Oregon's medical marijuana program, as well as for the testing, labeling and packaging of marijuana products. The bill does the following to the medical marijuana program:

- Requires medical marijuana registry identification cardholders and medical marijuana growers, processors, and dispensaries to be registered with OHA;
- Outlines the OHA licensing process and establishes residency requirements to receive a registry identification card;
- Sets limits on the number of plants that may be grown based on location;
- Requires OHA to establish a tracking system for growers, processors, and dispensaries;
- Requires OHA to adopt rules regarding public health and safety standards for processors of cannabinoid edibles, concentrates, and extracts;
- Requires processors producing cannabinoid edibles to be licensed by the Department of Agriculture (ODA);
- Allows local governments to enact regulations on grow sites, processing sites and dispensaries, but prohibits such governments from taxing marijuana;
- Requires OHA, in consultation with the ODA and the Oregon Liquor Control Commission (OLCC), to establish standards for testing marijuana items and for the packaging and labeling of such items;
- Requires OHA to establish rules for the licensing and accrediting of laboratories testing marijuana;
- Allows OHA to work with ODA and OLCC to implement and enforce the law and grants all of the agencies the authority to possess, seize, or dispose of marijuana as necessary to enforce the law; and
- Grants OHA the authority to impose civil penalties of up to \$500 per day for violations.

OHA estimates that there would be total costs of approximately \$10.5 million in 2015-17 to implement the measure. (It should be noted that OHA estimates take into account funding for some work, including

background checks, to be completed by the Department of Human Services (DHS).) This amount would drop to approximately \$6.5 million in 2017-19, as a result of a reduction in one-time costs that would be incurred in 2015-17. Of the \$10.5 million, \$6.3 million is for staffing costs as the agency projects the need for 39.19 FTE (43 positions), with the majority of the positions (25) to be located in the Public Health Division to regulate, track, and inspect marijuana growers and processors. Of the total amount of new FTE, 2.77 FTE (3 positions) would be located in DHS. While the measure allows OHA to contract with OLCC for investigations, the agency's fiscal impact does not assume that would occur in 2015-17 or 2017-19. The remaining positions (15) would be technology-related to develop the tracking system and administrative positions to provide program support. Most of the position-related costs are anticipated to be ongoing as the total FTE is reduced by only 7.92 FTE in 2017-19 to an ongoing total of 31.27 FTE; however services and supplies, which are estimated at \$4.6 million in 2015-17, are expected to be reduced to \$1.9 million in 2017-19, as one-time costs related to system development are phased out of the budget. The agency may incur facilities-related costs that are indeterminate at this time, to accommodate the additional positions. The revenue to cover OHA costs is anticipated to come from licensing fees and civil penalties.

It is unknown how much time and assistance OHA will require of OLCC and how the changes in the measure will affect the revenue and costs for the implementation of Ballot Measure 91; however, OLCC may be able to absorb the additional workload within their budget as long as the agency receives adequate funding for their role in the implementation of Ballot Measure 91. Estimated costs to OLCC range from the \$7.1 million that was included in the Governor's budget to a more recent analysis that indicated the costs will be slightly over \$10 million. It should be noted that OLCC believes that the costs for implementing Ballot Measure 91 will be offset by revenues from tax collections and license fees during the second half of the 2015-17 biennium. This expectation is based on the collection of approximately \$1.3 million per month in excise tax revenue beginning in August 2016. OLCC is also required to begin accepting license applications for the retail marijuana system on January 4, 2016, but the licensure process relies on having sufficient testing facilities in place. The bill requires OHA to establish rules and a licensure program for testing facilities that will be used by both OHA for the medical marijuana program and by OLCC for the recreational marijuana program. This bill does not provide timelines for OHA to adopt rules for the licensure of laboratories. As a result, if OHA is unable to license facilities in the timeframe that has been assumed by OLCC for their revenue projections, the total tax collection for 2015-17 could, potentially, be insufficient to cover costs for that time period.

ODA anticipates costs of \$212,641 in 2015-17 to cover the costs to the agency for the implementation of Ballot Measure 91. This includes the cost of one vehicle and one position to allow for additional inspections of food processing establishments and bakeries, anticipating a demand for marijuana-infused food products. The 2017-19 cost would be reduced to \$187,641, reflecting the elimination of the one-time cost for a vehicle in 2015-17. The revenue to cover these costs would be transferred from OLCC. As with OLCC, it is unknown how much time and assistance OHA will require of ODA and, as a result, the costs to ODA for the additional requirements under SB 844-6 are indeterminate at this time.

Other agencies potentially impacted by the bill (the Board of Pharmacy, the Department of Revenue, and the Oregon Judicial Department) are expected to incur minimal costs to implement SB 844-6.

The agencies note that they will continue to refine their estimates as there is further clarification of roles and responsibilities. Some costs, as well as the impact to revenue projections, will remain indeterminate until rules are adopted to implement this measure and Ballot Measure 91. Potentially, costs to OLCC and OHA could be lower or higher than estimated depending on how both the medical and recreational marijuana programs operate under the new provisions, as well as how the market responds to the programs. The Legislative Fiscal Office believes this measure warrants a subsequent referral to the Joint Committee on Ways and Means for further consideration of the measure's budgetary impact.