

FISCAL IMPACT OF PROPOSED LEGISLATION**Measure: HB 3400 - 30**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:

Specifies regulations to facilitate the sale, distribution and taxation of recreational marijuana and makes changes to the Oregon Medical Marijuana Act.

Government Unit(s) Affected:

Oregon Liquor Control Commission, Oregon Health Authority, Department of Agriculture, Oregon State Police, Oregon Judicial Department, Department of Revenue, Board of Pharmacy, Counties, Cities

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:

HB 3400-30 amends HB 3400-9, which has not yet been adopted, by further clarifying language and the requirements and authority of the Oregon Liquor Control Commission to implement the recreational marijuana program. The measure also increases the amount of cannabinoid concentrates which can be made, processed, stored or delivered. Further, the measure increases the size of the Task Force on Cannabis Environmental Best Practices and eliminates the requirement to establish a Task Force on Local Control of Marijuana Production and Sales. The measure does not change the fiscal impact of the underlying measure, which is provided below.

HB 3400-9 outlines responsibilities and authorities for the implementation of Oregon's recreational marijuana program. Provisions of the bill include the following:

- Requires licensed marijuana growers, wholesalers, processors and retailers to be at least 21 years old, be a resident of Oregon for two years and maintain a surety bond and liability insurance;
- Requires the Oregon Liquor Control Commission (OLCC) to adopt rules limiting the size of a mature marijuana canopy and allows the agency to adopt rules creating a tiered system for such canopy;
- Requires OLCC to develop a seed to sale tracking system, which must be used by licensees when transferring marijuana ;
- Allows OLCC to create a license for medical marijuana growers to sell immature marijuana plants and useable marijuana under specified conditions;
- Provides authority for OLCC to inspect, arrest, seize and issue citations to violators of the law and grants the agency civil penalty authority, but prohibits inspections be for the purpose of ensuring compliance with the Oregon Medical Marijuana Act;
- Requires OLCC to implement a permitting program for workers in retail marijuana establishments;
- Allows local governments to adopt regulations on growers, processors, wholesalers, and retailers as specified;

- Requires the Oregon Health Authority (OHA) and OLCC to require that all marijuana items be tested prior to sale or transfer;
- Requires OLCC, in consultation with OHA and the Oregon Department of Agriculture (ODA), to establish a testing program for marijuana items;
- Requires OHA, in consultation with OLCC and ODA, to establish standards for packaging and labelling of marijuana items;
- Establishes the Marijuana Control and Regulation Fund to be managed by OLCC;
- Allows counties and cities to establish a tax on retail marijuana sales of up to 3 percent if such tax is approved by electors at a statewide election;
- Establishes the Task Force on Cannabis Environmental Best Practices and the Task Force on Local Control of Marijuana Production and Sales; and
- Other conditions and requirements.

Estimated costs to OLCC for the implementation of Ballot Measure 91 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 approximately \$10.5 million. The changes to the implementation of Ballot Measure 91 included in this measure are expected to increase that estimate by approximately \$300,000 to pay for staff and other costs for the permitting program and work related to the Marijuana Control and Regulation Fund. The agency also believes they will incur additional costs related to the staffing of task forces and study groups as required by the bill. It should be noted that costs related to a number of the new requirements are indeterminate and it is likely that adjustments will need to be made in the future to the agency's budget to reconcile resources with the detailed implementation plan. OLCC is working under the assumption that the costs for implementation 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.

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 additional position. 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. It is anticipated that some of the work that would be required of ODA under HB 3400-9 is consistent with work related to the implementation of Ballot Measure 91 and could be absorbed if the agency receives the Ballot Measure 91 funding that has been requested. ODA notes that it is unknown how much additional time and assistance will be required of the agency, and, as a result, the costs for additional work that may be generated by HB 3400-9 is indeterminate at this time.

Fiscal impact information was requested of OHA, but the agency did not provide information on HB 3400-9 to LFO to be analyzed and included in this fiscal impact statement. It is unknown at this time what costs OHA believes it would incur related to this measure.

The Judicial Department believes that the changes in the law under HB 3400-9 will result in costs of slightly over \$130,000 due to increased judge and staff time. Other agencies potentially impacted by the bill have stated that costs related to the measure are indeterminate at this time or are expected to be minimal. 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. Potentially, costs 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.

It should be noted that HB 3400-10, which modifies requirements related to the Oregon Medical Marijuana Act, prescribes some requirements of OHA that are similar to requirements prescribed for OLCC in HB 3400-9, including the establishment of a tracking system. There may be an opportunity to reduce overall costs if the agencies are authorized to work together on a tracking system or other items.