

**FISCAL IMPACT OF PROPOSED LEGISLATION****Measure: HB 3400 - A**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 Health Authority, Oregon Liquor Control Commission, Department of Agriculture, Oregon State Police, Board of Pharmacy, Oregon Judicial Department, Department of Revenue, Cities, Counties

**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-A outlines responsibilities and authorities for the implementation of Oregon's recreational marijuana program. The measure also outlines the responsibilities and authorities related to Oregon's medical marijuana program.

Provisions of the bill relating to the recreational marijuana program include the following:

- Authorizes the Oregon Liquor Control Commission (OLCC) to adopt rules to implement the law, including rules to protect public health and safety;
- Requires licensed marijuana growers, wholesalers, processors and retailers to be at least 21 years old, be a resident of Oregon for two years, maintain a surety bond and liability insurance and meet other requirements as specified;
- Requires 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;
- Specifies the amount of cannabinoid concentrates which can be made, processed, stored or delivered;
- Allows OLCC to create a license for medical marijuana growers to sell immature marijuana plants and useable marijuana under specified conditions;
- Grants OLCC the authority to establish fees to cover the agency's costs to implement the law;
- 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 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;
- Establishes the Marijuana Control and Regulation Fund;

- Allows counties and cities to adopt regulations on growers, processors, wholesalers and retailers as specified, and 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 13-member Task Force on Cannabis Environmental Best Practices to be staffed by OLCC; and
- Other conditions and requirements.

Provisions of the bill relating to the medical marijuana program include the following:

- Authorizes OHA to adopt rules to implement the law, including rules to protect public health and safety;
- 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 standards and requirements;
- Sets limits on the number of plants and the amount of usable marijuana that may be possessed;
- Requires OHA to establish a tracking system for growers, processors and dispensaries;
- Specifies when OHA may conduct inspections;
- Limits fees to \$20 for veterans diagnosed with post-traumatic stress syndrome;
- Allows local governments to adopt regulations on producers, processors, wholesalers, dispensaries and retailers as specified;
- Grants OHA the authority to impose civil penalties; and
- Other conditions and requirements.

In addition, the measure requires OHA and OLCC, with the assistance of the Oregon Department of Agriculture (ODA) to establish testing requirements and standards for the packaging and labelling of marijuana items. OHA, OLCC and ODA are also authorized to enter into agreements to implement and enforce the law, and are granted the authority to possess, seize or dispose of marijuana as necessary.

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 \$600,000 to pay for staff and costs for the permitting program and work related to the Marijuana Control and Regulation Fund, as well as for expenses related to the staffing of task forces and study groups as required by the bill. It is unknown how much time and assistance OHA will require of OLCC related to the medical marijuana program, but OLCC expects such costs would be minimal and the work would be absorbable within current business processes. OLCC notes that they expect that any costs would be covered by revenue collected by OHA and would be addressed as part of an interagency agreement. 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.

OHA indicates that they expect to incur costs of just under \$12 million in 2015-17 and \$6.7 million in 2017-19 to implement the bill. In earlier bills considered this Session regarding the medical marijuana program that had similarities to this measure, OHA estimated that there would be total costs of approximately \$10.5 million in 2015-17, which 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 was for staffing costs, with the majority of the new 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 that was estimated, 2.77 FTE (3 positions) would be located in DHS and the remaining positions (15) would be technology-related to develop a tracking system and administrative positions to provide program support. Just as with OLCC cost estimates, 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 reconcile resources with the detailed implementation plan.

Work is ongoing to refine the cost estimates provided above in order to make the necessary adjustments to the agencies' 2015-17 budgets. Some costs will remain indeterminate until rules are adopted to

implement this measure and Ballot Measure 91. 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 analysis is ongoing to identify opportunities to reduce overall costs, including having OLCC and OHA work together on a single tracking system.

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. It is anticipated that some of the work that would be required of ODA under HB 3400-A is consistent with work that was anticipated in the agency's budget request related to the implementation of Ballot Measure 91. However, ODA's budget has been approved by the Joint Committee on Ways and Means without any funding related to implementation of Ballot Measure 91. 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-A is indeterminate at this time.

The measure modifies the law regarding marijuana offenses, which is likely to increase the number of motions filed to set aside a felony marijuana conviction, although the number of motions is indeterminate. The Oregon State Police (OSP) note that there are currently 78,319 marijuana offense convictions included in the Oregon Computerized Criminal History file that have the potential to become eligible for the set aside process. Depending on the number of set asides that are requested and the timing of those requests, OSP may need to return to the Legislature for additional staff and an increase in Other Funds expenditure limitation. The Judicial Department believes that the changes in the law under HB 3400-A will result in costs of slightly over \$145,000 due to increased judge and staff time. Other agencies potentially impacted by the bill are expected to incur minimal or no costs to implement the measure.