

FISCAL IMPACT OF PROPOSED LEGISLATION

Measure: HB 3112 - A

81st Oregon Legislative Assembly – 2021 Regular Session
Legislative Fiscal Office

Legislative Fiscal Office *Only Impacts on Original or Engrossed Versions are Considered Official*

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Measure Description:

Establishes Cannabis Equity Board within office of Governor to provide equity oversight of cannabis industry in this state.

Government Unit(s) Affected:

Oregon State Police (OSP), Oregon Liquor Control Commission (OLCC), Office of the Governor, Board of Parole and Post-Prison Supervision (BPPPS), Department of Corrections (DOC), Oregon Judicial Department (OJD), Department of Justice (DOJ), Oregon Health Authority (OHA), Criminal Justice Commission (CJC), Oregon Department of Agriculture (ODA), Department of Administrative Services (DAS), Public Defense Services Commission (PDSC), District Attorneys and their Deputies (DAs), Cities Counties

Analysis:

This fiscal impact statement is for the purpose of transmitting the measure from the House Committee on Rules to the Joint Committee on Ways and Means.

The measure is anticipated to have an impact on the Oregon State Police (OSP), the Oregon Liquor Control Commission (OLCC), the Office of the Governor, the Board of Parole and Post-Prison Supervision (BPPPS), the Department of Corrections (DOC), the Oregon Judicial Department (OJD), the Oregon Health Authority (OHA), the Department of Justice (DOJ), the Criminal Justice Commission (CJC), the Oregon Department of Agriculture (ODA), the Department of Administrative Services (DAS), the Public Defense Services Commission (PDSC), District Attorneys and their Deputies (DAs), Cities, and Counties.

A more complete fiscal analysis on the measure will be prepared as the measure is considered in the Joint Committee on Ways and Means.

The measure:

- Amends statutes relating to the Criminal Fine Account and the Marijuana Account and specifies new fund allocations to the Cannabis Equity Fund.
- Stipulates that the Oregon State Police (OSP) portion of marijuana taxes be “prioritized for use in covering any costs incurred by the Department of State Police as a result of ORS 475B.401” and the work to expunge records, effective August 22, 2022.
- Establishes the Equity Investment and Accountability Board and the Equity Investment and Accountability Office within the office of Governor to provide equity oversight within Oregon’s cannabis industry.
- Establishes the Cannabis Equity Fund. Moneys in the fund are continuously appropriated to the Equity Investment and Accountability Board and Equity Investment and Accountability Office.

Further Analysis Required

- Establishes equity liaisons in the Oregon Health Authority (OHA) and the Oregon Liquor Control Commission (OLCC). Requires equity liaisons to report to Equity Investment and Accountability Board quarterly on specified information.
- Requires OLCC and OHA marijuana regulation directors and staff to complete equity training at least once every six months.
- Directs the Oregon Liquor Control Commission (OLCC) and the Oregon Health Authority (OHA) to adopt rules for issuing and regulating the following licenses: (1) Cannabis Equity License, (2) Cannabis On-Premises Consumption License, (3) Cannabis Delivery License, and (4) Shared Processing License.
- Directs the Public Defense Services Commission (PDSC) to study state laws and compile a list of offenses that include as a predicate offense or necessary element of the offense possession of less than one ounce of marijuana or conduct which exempts from criminal prosecution certain activities involving industrial hemp. The measure requires PDSC to prepare and submit a report to the judiciary committees of the legislature, the Oregon Judicial Department (OJD), the Equity Investment and Accountability Board, and the Equity investment and Accountability Office, by July 1, 2022. PDSC must update the report and submit it annually beginning on July 1, 2023 until January 1, 2026.
- Requires OJD to provide to PDSC, by August 22, 2022, information on all persons who may qualify to have a conviction set aside under ORS 475B.401, which is the statute allowing for court orders to set aside qualifying marijuana convictions. The measure directs OJD to make the best efforts to ensure that the information provided is sufficient to identify the person and the specific case resulting in conviction. The section imposes similar requirements on the Oregon State Police (OSP).
- Defines qualifying marijuana offense (QMO) and allows a person who has been arrested for, issued a criminal citation for, or otherwise charged for (but not convicted of) a marijuana offense to apply to the court to set aside the record of arrest, citation or charge. The person may file a motion and apply to the court for the set aside at any time. When filing the motion for set aside, the person must serve a copy on the prosecuting attorney. Within 30 days, the prosecuting attorney may file an objection. If the court receives an objection, the court shall hold a hearing to determine if the record should be set aside. If the court determines that the record is for a QMO, the court shall grant the motion and enter the set aside order. Upon entry of the order, the person, for purposes of law shall be deemed not to have been previously convicted of or arrested, cited or charged for the offense, and the court shall issue an order sealing the records. The court shall forward a certified copy of the order to agencies.
- Requires PDSC to determine whether the person is eligible to set aside a conviction, arrest, citation or other charge under ORS 475B.401.

The reallocation of funding, new licensing programs, new training and data reporting requirements, as well as activities related to set aside proceedings and violation expungements, including review of records, will have revenue, expenditure, and staffing impact for the affected agencies and county community corrections programs. This impact will be quantified when a more complete fiscal analysis on the measure is prepared when the measure is considered in the Joint Committee on Ways and Means.

Further Analysis Required