

ANALYSIS

Oregon Liquor and Cannabis Commission Licensing Fees and Cross Agency Partnerships

Analyst: Michelle Deister

Request: Acknowledge receipt of a report on licensing fees and cross agency partnerships by the Oregon Liquor and Cannabis Commission pursuant to budget note direction included in HB 5018 (2021 Session).

Analysis: As part of its 2021-23 legislatively adopted budget, the Oregon Liquor and Cannabis commission was directed to report on existing and anticipated requests for financial support of other agency's regulatory efforts involving cannabis, develop evaluative criteria for future requests for funding, and a potential means of funding these requests utilizing input from licensees. Lastly, the budget note included direction to OLCC to biennially review intergovernmental agreements that involved the transfer of revenue for such regulation, and evaluate the extent to which those arrangements require ongoing support from OLCC licensing revenue.

For the current biennium, OLCC provides support to the Department of Agriculture for its pesticide compliance program, in the amount of \$487,897 and two positions. The impetus for this support was to ensure that producers know which pesticides were authorized for use specifically on cannabis (which is often ingested or inhaled), and how to properly apply the allowed products, as well as to investigate complaints, as approximately 14% of all cases had historically been cannabis-related. This expenditure was designated as one-time in nature, and a revenue transfer from OLCC to Department of Agriculture is not contemplated in 2023-25 to support this activity.

OLCC has also supported a cannabis policy coordinator at the Department of Agriculture since the 2015-17 biennium. The 2023-25 Current Service Level budget anticipates continuing this support at a cost of \$317,992. The purpose of the position is to work with OLCC and the Oregon Health Authority to identify appropriate product standards and testing methodologies for cannabis and hemp products.

Medical Marijuana producers are regulated by the Oregon Health Authority, but OLCC does inspections and maintains licensee data on the Oregon Health Authority's behalf, at a cost of \$434,000 in 2021-23, and \$528,000 in 2023-25. These costs are reimbursed by the Oregon Health Authority pursuant to an interagency agreement.

Field testing of crops to ensure the appropriate regulation of products and producers involve partnering between local law enforcement, OLCC and the Department of Agriculture. No monetary exchanges currently occur, but expertise and personnel are shared when issues are suspected or discovered.

The OLCC has yet to develop evaluative metrics to help determine the circumstances under which future requests for funding should be continued, but will evaluate any requests for future funding using criteria that include: alignment with OLCC mission and values; public safety considerations; and benefit to licensee stakeholders who pay licensing fees.

Legislative Fiscal Office Recommendation: The Legislative Fiscal Office recommends acknowledging receipt of the report.

Oregon Liquor and Cannabis Commission Brickman

Request: Acknowledge receipt of a report on the inventory of existing and anticipated regulatory efforts and services involving recreational and medical marijuana licensees delivered cooperatively through other states agencies using marijuana licensing revenue.

Recommendation: Acknowledge receipt of the report.

Discussion: Per the following budget note contained in the agency's budget report for House Bill 5018 (2021) the Oregon Liquor and Cannabis Commission (OLCC) is submitting a report.

The Oregon Liquor Control Commission is directed to inventory existing and anticipated regulatory efforts and services involving recreational and medical marijuana licensees that are delivered cooperatively through other state agencies but receive or request marijuana licensing revenue to fund costs. These efforts may include agricultural and crop-related policy development, pesticide labeling and investigation, lab testing of licensee products performed by state regulatory entities, enforcement activities, and public health-related issues. As part of its evaluation, OLCC is expected to develop narrow criteria for what activities in other agencies have a direct correlation to cannabis licensees, and for which financial support may be sought.

OLCC will report to the Joint Committee on Ways and Means prior to the conclusion of the 2021-23 biennium describing the following:

- All existing cross agency partnerships that are currently supported by OLCC marijuana licensee revenue, including the amount supported by licensees and recipient agency contributions to those efforts;
- Requested but as yet unfunded cross-agency initiatives to date (including contributions to those efforts by affected agency parties);
- The extent to which OLCC believes it would be helpful to designate some amount of licensee fees for such efforts;
- Options for identifying -- with the assistance of licensee stakeholders -- transparent funding mechanisms for existing and potentially future efforts, including suggested amounts; and
- Suggested criteria for inclusion of such activities in future agency budgets.

The Joint Committee on Ways and Means recommends the OLCC biennially review intergovernmental agreements with agencies and entities with which it transfers revenue or contracts for services supported by marijuana revenue, evaluate the extent to which those arrangements require ongoing support, and include this information in OLCC's budget request.

OLCC has worked during the 2021-23 biennium to inventory existing and anticipated marijuana regulatory efforts and reports joint efforts with the Oregon Department of Agriculture and the Oregon Health Authority. OLCC works with stakeholders in the marijuana industry and has received feedback regarding the interest in additional oversight for laboratory testing. OLCC's recommendation is that marijuana license fees not be set aside in reserve for joint regulatory effects without the development of and evaluation using metrics to provide data driven decision making.



Oregon

Tina Kotek, Governor

Liquor & Cannabis Commission

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January 23, 2023

The Honorable Senator Elizabeth Steiner, Co-Chair
The Honorable Representative Tawna D. Sanchez, Co-Chair
Joint Committee on Ways and Means
900 Court Street NE
H-178 State Capitol
Salem OR, 97301-4048

Dear Co Chairs Steiner and Sanchez:

Nature of the Request: The Oregon Liquor and Cannabis Commission (OLCC) respectfully requests acknowledgement of the agency's report on the following budget note in HB 5018 (2021):

The Oregon Liquor Control Commission is directed to inventory existing and anticipated regulatory efforts and services involving recreational and medical marijuana licensees that are delivered cooperatively through other state agencies, but receive or request marijuana licensing revenue to fund costs. These efforts may include (but may not necessarily be limited to) agricultural and crop related policy development, pesticide labeling and investigation, lab testing of licensee products performed by state regulatory entities, enforcement activities, and public health-related issues. As part of its evaluation, the OLCC is expected to develop narrow criteria for what activities in other agencies have a direct correlation to cannabis licensees, and for which financial support may be sought.

OLCC will report to the Joint Committee on Ways and Means prior to the conclusion of the 2021-23 biennium describing the following:

- All existing cross agency partnerships that are currently supported by OLCC marijuana licensee revenue, including the amount supported by licensees and recipient agency contributions to those efforts;
- Requested but as yet unfunded cross-agency initiatives to date (including contributions to those efforts by affected agency parties);
- The extent to which OLCC believes it would be helpful to designate some amount of licensee fees for such efforts;

- Options for identifying, with the assistance of licensee stakeholders, transparent funding mechanisms for existing and potentially future efforts, including suggested amounts; and
- Suggested criteria for inclusion of such activities in future agency budget requests.

The Joint Committee on Ways and Means recommends that the OLCC biennially review intergovernmental agreements with agencies and entities with which it transfers revenue or contracts for services supported by marijuana revenue, evaluate the extent to which those arrangements require ongoing support, and include this information in OLCC’s budget request document.

Agency Action/Need:

The OLCC has been working in the 2021-23 biennium to inventory our existing and anticipated marijuana regulatory efforts. In coordination with this effort the agency was also tasked with reviewing the extent to which OLCC believes it would be helpful to designate some amount of license fees for these existing or anticipated efforts, options for identifying transparent funding mechanisms, and suggested criteria for inclusion of such activities in future budget request.

The following table provides an inventory of the existing and anticipated marijuana regulatory efforts:

Regulatory efforts/services	Existing, Requested, or Both	2021-23 LAB	2023-25 CSL	2023-25 ARB	Not in 2023-25 ARB	Notes
Dept. of Agriculture - Pesticide Regulation	Existing	\$ 487,897			\$555,531	Not requested by OLCC at 2023-25 Agency Request since the funding transfer for these ODA positions were noted for the 2021-23 biennium only in OLCC's Legislatively Adopted Budget.
Dept. of Agriculture - Cannabis Policy Coordinator	Both Existing & Requested	\$ 305,175	\$ 317,992			
Dept. of Agriculture - Lab funding (OLCC legislative concept, POP 418 revenue transfer from OLCC to Ag.)	Requested			\$ 2,281,689		
2021 Hemp Crop Field Testing w/ODA in Jackson/Josephine Counties	Existing	N/A	N/A	N/A	N/A	Inter-agency partnership, but no monetary exchange occurred between OLCC and ODA.
Other Funds Total - Expenses		\$ 793,072	\$ 317,992	\$ 2,281,689	\$555,531	

OHA - Reimbursable Metrc contract	Both Existing & Requested	\$ 434,000	\$ 528,000			OLCC incurs expenses that are then reimbursed by OHA.
Other Funds Total - Revenues		\$ 434,000	\$ 528,000	\$ -	\$ -	

OLCC collaborates with licensee stakeholders to glean information in many ways, we conduct formal rule advisory committee meetings, hold a standing marijuana advisory group and we have conducted licensee surveys for additional stakeholder feedback on concepts and issues in the past. We have heard from many licensees and other groups over the past 5 years that additional oversight is needed for laboratory testing. Many licensees feel there are some businesses and possibly labs gaming the system, which in turn may hurt their brands and their ability to effectively market their products. Licensees and OLCC alike believe that using marijuana licensing fees to assist in funding a state reference lab would help to provide additional oversight.

At this time, OLCC would not recommend designating marijuana license fees. Instead, the agency would recommend developing and/or evaluating metrics to help provide data driven decision-making. This could also help to inform future policy decisions. As the legalized cannabis market in Oregon matures, regulating agencies face new obstacles that require collaboration, and possibly monetary resources. Because the OLCC marijuana funds are based on license fees it is important the funds support marijuana businesses, but also support consumer and public safety.

The suggested criteria the OLCC would offer for potential inclusion in future budget requests would be the following:

- Does budget request align with OLCC vision/mission/values?
- Does budget request align with OLCC mission?
- Does budget request align with OLCC values?
- How will results be measured?

Action Requested:

The Oregon Liquor and Cannabis Commission respectfully requests acknowledgement of the agency's report regarding this 2021 budget note.

Thank you for your consideration

Sincerely,



Steve Marks
Executive Director
Oregon Liquor and Cannabis Commission

CC: Michelle Deister Legislative Fiscal Office
Tamara Brickman DAS/Chief Financial Office

