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OHIO LEGISLATIVE SERVICE COMMISSION

Office of Research
and Drafting

Legislative Budget
Office

S.B. 57
133rd General Assembly

Fiscal Note & Local Impact Statement

[Click here for S.B. 57's Bill Analysis](#)

Version: As Passed by the Senate

Primary Sponsors: Sens. Hill and S. Huffman

Local Impact Statement Procedure Required: No

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Highlights

- The Division of Plant Health within the Department of Agriculture may need to hire four to seven employees to oversee the Hemp Program if Ohio's application to operate one is approved by the U.S. Department of Agriculture. This could increase payroll costs by \$430,000 to \$515,000 per year. There will also be some initial and recurring equipment and maintenance costs, depending on the scope of the program.
- The Division of Plant Health's costs for operating this new program would at least be partially offset by license and testing fees deposited into the Hemp Program Fund, which the bill creates.
- The bill may minimally increase caseload for county prosecutors to prosecute violations of the bill's prohibitions. The bill establishes a minor misdemeanor for a first offense (maximum fine of \$150) and a fourth degree misdemeanor for subsequent violations (maximum fine of \$250 and a jail sentence of not more than 30 days).

Detailed Analysis

Hemp Program

The Department of Agriculture will incur increased costs to establish a Hemp Cultivation and Processing Program to monitor and regulate hemp cultivation and hemp processing related to production of cannabidiol. These regulatory activities will be handled by the Division of Plant Health. Overall, the Department estimates that it will need to hire four to seven employees, including one agriculture inspection manager, one program administrator, up to four plant health inspectors, and one certification and licensing examiner. As the table below shows, total annual payroll costs for these seven positions could range from approximately \$430,000 (if all employees elect health insurance for single coverage) to nearly \$515,000 (if all employees elect health insurance for family coverage) per year. These costs would be paid from hemp

cultivation license fees, hemp processor license fees, and laboratory testing fees deposited into the Hemp Program Fund created under the bill. The number of employees needed to operate Ohio's Hemp Program will ultimately depend on the number of hemp cultivation and processor licenses issued and the scope of the program under the guidelines that must be approved by the U.S. Department of Agriculture.

Potential Annual Payroll Costs for the Hemp Program					
Position	Starting Base Salary	Retirement (14% of Annual Salary)	Health Insurance – Single Coverage	Health Insurance – Family Coverage	Total Potential Cost
Agriculture Inspection Manager (1)	\$58,469	\$8,186	\$7,308	\$20,122	\$73,963-\$86,777
Program Administrator (1)	\$53,040	\$7,426	\$7,308	\$20,122	\$67,774-\$80,588
Plant Health Inspector (4)	\$45,760	\$6,406	\$7,773	\$19,596	\$239,756-\$287,048
Certification and Licensing Examiner (1)	\$35,942	\$5,031	\$7,773	\$19,596	\$48,746-\$60,569
Total					\$430,239-\$514,982

Additionally, the bill first requires that the Department (1) adopt administrative rules establishing standards and procedures to regulate hemp cultivation and processing (consult the LSC Bill Analysis for the list of rules), and (2) submit a plan for the regulation of hemp to the U.S. Secretary of Agriculture for approval not later than 180 days after the bill's effective date. These responsibilities will be carried out by existing staff within the Ohio Department of Agriculture and will not result in additional costs. Based on the plans approved by the federal government, however, there will also be some one-time start-up and ongoing costs for equipment and maintenance associated with the new program beyond the additional potential staffing costs described above. These costs will ultimately depend on the scope of the program.

Industrial hemp programs in other states

Authority under federal Agriculture Act of 2014

According to the National Conference of State Legislatures, 41 states have enacted legislation to establish industrial hemp cultivation and production programs as permitted under the federal Agriculture Act of 2014. That federal law allowed for state departments of agriculture or universities to grow and produce hemp as part of research or pilot programs.¹ All

¹ Information accessed on March 12, 2018 at <http://www.ncsl.org/research/agriculture-and-rural-development/state-industrial-hemp-statutes.aspx>.

of the five states surrounding Ohio have enacted legislation establishing hemp research programs.

One such program is the Industrial Hemp Research Pilot Program administered by the Kentucky Department of Agriculture. The program licenses growers and processors involved with hemp research, including crop production techniques, processing, marketing, and other aspects. The grower application fee is \$100 and a participant fee is \$400 per growing address. Processor application fees are also \$100 and participant fees are \$500 annually for handlers, fiber processors, and grain processors, and \$3,000 annually for floral material processors. Additionally, institutions of higher education are authorized to conduct hemp research for the state and must register to become an affiliate. As of September 2018, there were 210 licensed growers, 72 licensed processors, and 14 university hemp research projects under Kentucky's program.

Authority under federal Agriculture Improvement Act of 2018

The federal Agriculture Improvement Act of 2018 expanded the authority to cultivate industrial hemp beyond research and pilot programs to generally allow for hemp and hemp products to be legally cultivated, produced, and sold under two circumstances. First, the Agriculture Improvement Act of 2018 required states wishing to authorize hemp cultivation to submit a plan for hemp regulation to the U.S. Secretary of Agriculture. Secondly, if a state does not submit a plan and hemp is not prohibited by that state, the U.S. Secretary of Agriculture would then establish a plan to monitor and regulate hemp in that state. S.B. 57 requires the Director of Agriculture to submit a plan for the regulation of hemp as noted above.

Criminal penalties and prosecution

The bill also requires the Director of the Department of Agriculture to report a person whom the Director determines has violated the bill's prohibitions with a culpable mental state of recklessness or greater to the Attorney General, the U.S. Attorney General, and the applicable county prosecutor. The bill establishes a minor misdemeanor for a first offense and a fourth degree misdemeanor for each subsequent offense for such violations. As a result, this may minimally increase caseload for the Attorney General or county prosecutor to prosecute these violations. The maximum fine for a minor misdemeanor is \$150 and \$250 and a jail sentence of not more than 30 days for a fourth degree misdemeanor.