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# OHIO LEGISLATIVE SERVICE COMMISSION

Office of Research  
and Drafting

Legislative Budget  
Office

S.B. 57  
(1\_133\_0456-7)  
133<sup>rd</sup> General Assembly

## Fiscal Note & Local Impact Statement

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

**Version:** In House Agriculture and Rural Development

**Primary Sponsors:** Sen. S. Huffman

**Local Impact Statement Procedure Required:** No

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### Highlights

- A new division will likely be created within the Department of Agriculture to oversee the Hemp Program if Ohio's application to operate one is approved by the U.S. Department of Agriculture. The new division may need to hire 24 full-time employees. This could increase payroll costs by \$1.6 million to \$1.9 million per year. There will also be some initial and recurring equipment and maintenance costs, depending on the scope of the program.
- The new division'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).
- The bill adds cultivation of hemp by a licensed person to the list of uses of land that qualify for property tax reduction under the current agricultural use valuation (CAUV) program. If land not currently enrolled in CAUV is used to grow hemp, its conversion to CAUV would in almost all areas entail some loss of local government revenue. Schools receive about 64% of taxes on agricultural real property and other units of local government receive about 36%, on average statewide.

## 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. Most of the new cost will be attributable to additional estimated staffing needs. Specifically, according to the Department a new division under the Department will most likely be created to handle these regulatory activities. Overall, the Department estimates that it will need to hire 24 new full-time employees as shown in the table below.<sup>1</sup> The total annual payroll costs for these 25 positions could range from approximately \$1.6 million (if all employees elect health insurance for single coverage) to nearly \$1.9 million (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 bill specifies that the application fee and annual license fee for a hemp cultivation license and a hemp processing license should not exceed the amount sufficient to cover costs incurred by the Department to administer and enforce the Hemp Program. 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
Executive Director (1)	\$117,000	\$16,380	\$7,308	\$20,122	\$140,688-\$153,502
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 (5)	\$45,760	\$6,406	\$7,773	\$19,596	\$299,695-\$358,810
Certification and Licensing Examiner (1)	\$35,942	\$5,031	\$7,773	\$19,596	\$48,746-\$60,569
Software Development Specialist (1)	\$60,486	\$8,468	\$7,773	\$19,596	\$76,727-\$88,550

<sup>1</sup> Estimated staffing needs have changed between bill introduction and the House substitute version (I\_133\_0456-7) and are reflected in this updated fiscal note. Note that these updated estimates of staffing costs are not attributable to the changes in the substitute bill.

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
Attorney (1)	\$70,637	\$9,889	\$7,308	\$20,122	\$87,834-\$100,648
Food Safety Supervisor (1)	\$58,469	\$8,186	\$7,308	\$20,122	\$73,963-\$86,777
Food Safety Specialist (3)	\$45,760	\$6,406	\$7,773	\$19,596	\$179,818-\$215,287
Laboratory Technician (3)	\$35,942	\$5,032	\$7,773	\$19,596	\$146,241-\$181,710
Laboratory Scientist (3)	\$50,086	\$7,012	\$7,773	\$19,596	\$194,613-\$230,082
Chemical Laboratory Supervisor (1)	\$58,469	\$8,186	\$7,308	\$20,122	\$73,963-\$86,777
Information Technologist (2)	\$54,954	\$7,694	\$7,773	\$19,596	\$140,841-\$164,487
<b>Total</b>					<b>\$1,607,961-\$1,904,579</b>

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.<sup>2</sup> All of the five states surrounding Ohio have enacted legislation establishing hemp research programs.

<sup>2</sup> Information accessed on March 12, 2018 at <http://www.ncsl.org/research/agriculture-and-rural-development/state-industrial-hemp-statutes.aspx>.

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.

### **Current agricultural use valuation**

The bill adds cultivation of hemp by a licensed person to the list of uses of land that qualify for property tax reduction under the current agricultural use valuation (CAUV) program. CAUV land is valued based on the estimated amount of net income that could be generated by using the land for agricultural production. This estimated annual net income is then converted to a value for the land, using factors representing the cost of capital invested in the agricultural operation. Resulting land values are generally a fraction of the value that the land would have in its highest and best use, the market value standard for most real property in the state. In tax year 2018, for example, CAUV land averaged 37% of market value statewide. CAUV is closer to market value in more rural parts of the state, and well below market value in more urban areas.

If land currently enrolled in the CAUV program and used for other agricultural purposes is converted to growing hemp, no loss of revenue to units of local government would result, as the land would continue to be valued and taxed under that program. Alternatively, if land not currently enrolled in CAUV is used to grow hemp, its conversion to CAUV would in almost all areas entail some loss of local government revenue. Schools receive about 64% of taxes on agricultural real property and other units of local government receive about 36%, on average statewide.

At this time, LSC has no information on how many acres might be used for hemp production or where they might be located. The bill sets no limits on the number of acres that could be planted in hemp, or on the number of growers who could be licensed for cultivation of this crop.

### **Emergency clause**

The bill includes an emergency provision so its provisions would go into immediate effect. Changes made by the bill potentially could affect taxation of real property in tax year 2019.

## **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. Additionally, the bill prohibits a person from transporting hemp or a hemp product under rules to be adopted under the bill. 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.

## **Synopsis of Fiscal Effect Changes**

The substitute bill adds cultivation of hemp by a licensed person to the list of uses of land that qualify for property tax reduction under the current agricultural use valuation (CAUV) program. If land currently enrolled in the CAUV program and used for other agricultural purposes is converted to growing hemp, no loss of revenue to units of local government would result, as the land would continue to be valued and taxed under that program. Alternatively, if land not currently enrolled in CAUV is used to grow hemp, its conversion to CAUV would in almost all areas entail some loss of local government revenue. Schools receive about 64% of taxes on agricultural real property and other units of local government receive about 36%, on average statewide. At this time, LSC has no information on how many acres might be used for hemp production or where they might be located.

The Department of Agriculture may also incur some administrative costs to adopt additional rules for the program. Specifically, the bill requires the Department to adopt additional rules including (1) establishing a procedure for testing, using post-decarboxylation or other methods, the delta-9 tetrahydrocannabinol concentration of plants and products for purposes of determining compliance with the bill, (2) establishing requirements and procedures governing the production, storage, and disposal of hemp byproducts, (3) establishing procedures and requirements for the transportation and storage of both hemp and hemp products, (4) equipment, facilities, or land necessary to obtain a hemp cultivation license, and (5) production standards and manufacturing practices for processing hemp. Additionally, the bill specifies that the application fee and the annual license fee for hemp cultivation and hemp processing to be established by the Department is not to exceed the amount sufficient to cover costs incurred by the Department to administer and enforce the Hemp Program.

Lastly, the bill prohibits a person from transporting hemp or a hemp product under rules to be established by the Department and imposes a minor misdemeanor for a first offense and a fourth degree misdemeanor for each subsequent offense. As a result, this may minimally increase caseload for the Attorney General or county prosecutors to handle 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.