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OHIO LEGISLATIVE SERVICE COMMISSION

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Office

S.B. 261
134th General Assembly

Fiscal Note & Local Impact Statement

[Click here for S.B. 261's Bill Analysis](#)

Version: As Reported by Senate Small Business and Economic Opportunity

Primary Sponsor: Sen. M. Huffman

Local Impact Statement Procedure Required: No

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Highlights

- The bill transfers the portions of the Medical Marijuana Control Program (MMCP) currently overseen by the Board of Pharmacy (PRX) to a newly created Division of Marijuana Control within the Department of Commerce. As a result, the Department will incur costs, including hiring new employees, to oversee these new responsibilities. Expenses would be paid from the Medical Marijuana Control Fund (Fund 5SY0).
- In FY 2021, PRX's costs to license medical marijuana retail dispensaries and register patients and caregivers amounted to approximately \$2.4 million and involved 11 full-time and one part-time employee.

Detailed Analysis

Overview

The bill creates the Division of Marijuana Control (DMC) within the Department of Commerce (COM) for the purpose of overseeing Ohio's Medical Marijuana Control Program (MMCP). Currently, three state agencies are responsible for the operation of MMCP. COM oversees the licensing of cultivators, processors, and testing laboratories. The Board of Pharmacy (PRX) oversees the licensing of retail dispensaries and the registration of patients and caregivers. The State Medical Board certifies physicians to recommend medical marijuana.

The bill transfers the portions of MMCP currently overseen by PRX to DMC (the State Medical Board's responsibilities remain the same under the bill). Specifically, the bill transfers the following responsibilities from PRX to DMC: registering patients and caregivers, approving and licensing retail dispensary licensees, overseeing licensee taxation, investigating violations of the Medical Marijuana Law, entering into reciprocity agreements with other states, and maintaining a toll-free telephone line for responding to inquiries related to MMCP. Retail

dispensaries will continue to submit required information regarding medical marijuana dispensed to a patient to PRX under the bill. The bill declares that on the completion of the transfer, MMCP in PRX is abolished. Consequently, the bill will increase costs for COM but eliminate the majority of costs for PRX as explained in more detail below.

Fiscal effect

The bill will increase costs for COM to oversee the transferred MMCP responsibilities that are currently under PRX. In FY 2021, PRX's MMCP expenses amounted to approximately \$2.4 million under the Medical Marijuana Control Fund (Fund 5SY0) line item 887613, Medical Marijuana Control Program. This line item currently supports the following 11 full-time employees and one part-time employee under its MMCP: (1) Deputy Director 5, (2) Attorney 5, (3) Attorney 4, (4) two Program Administrator 2s, (5) Administrative Professional 3, (6) Pharmacy Board Regional Supervisor, (7) four Pharmacy Board Agents, and (8) a part-time Program Administrator 3.

COM anticipates it will need to hire the same number of employees to perform ongoing dispensary oversight and patient and caregiver registration. However, the bill contains other provisions which may require additional staff. These provisions include: (1) expanding the types of medical conditions that are eligible for treatment with medical marijuana, (2) requiring DMC to endeavor to achieve a ratio of at least one licensed retail dispensary per 1,000 registered patients up to the first 300,000 registered patients and then adding additional retail dispensaries on an as-needed basis, and (3) establishing a new cultivator license category called "stand-alone processors." Taken together, these provisions may increase the number of registered patients and caregivers, licensed retail dispensaries, and licensed cultivators regulated under DMC and necessitating additional staff. In addition to increasing the scope of MMCP, the bill requires PRX and COM to collaborate on conducting an equity study of the medical cannabis industry and the medical cannabis market to determine whether there is a compelling interest to implement remedial measures to assist minorities and women in the medical cannabis industry.

Expenses incurred by COM will be paid under Fund 5SY0 line item 800650, Medical Marijuana Control Program, which is currently used to cover ongoing MMCP administrative costs. In FY 2021, expenses under this line item amounted to approximately \$3.6 million. Any costs incurred by COM for its ongoing MMCP operations as well as those the agency takes on under the bill will most likely be offset from application, registration, and license fees deposited into Fund 5SY0. Fund 5SY0 is funded by the following sources: (1) fees collected by PRX to register patients and caregivers and to issue licenses to medical marijuana retail dispensaries, and (2) fees collected by COM to issue licenses to medical marijuana cultivators, processors, and testing laboratories. The table below displays current license and registration fees charged by COM and PRX. It also shows the current number of licensees and registrants as of October 26, 2021.¹

¹ <https://medicalmarijuana.ohio.gov/Documents/ProgramUpdate/program%20update.pdf> (accessed November 23, 2021).

Medical Marijuana Control Program Fees and Statistics		
License/Registration	Fees	Number of Licensees/Registrants
Cultivators – Level I	\$20,000 application fee; \$180,000 initial Certificate of Operation (COO) fee; and \$200,000 COO annual fee	20 provisional licenses (15 have received Certificates of Operation)
Cultivators – Level II	\$2,000 application fee; \$18,000 initial COO fee; and \$20,000 COO annual fee	14 provisional licenses (12 have received Certificates of Operation)
Processors	\$10,000 application fee; \$90,000 COO fee; and \$1,000 COO annual fee	47 provisional licenses (36 have received Certificates of Operation)
Testing Laboratories	\$2,000 application fee; \$18,000 COO fee; and \$100,000 COO annual fee	11 provisional licenses (4 have received Certificates of Operation)
Retail dispensaries	\$5,000 application fee; \$70,000 COO fee; and \$70,000 biennial license fee	58 provisional licenses (57 have received Certificates of Operation)
Patients	\$50 annual fee	131,536*
Caregivers	\$25 annual fee	25,372

*This number represents patients with both an active registration and active recommendation from a physician.