



Ohio Legislative Service Commission

Jacquelyn Schroeder

Fiscal Note & Local Impact Statement

Bill: H.B. 523 of the 131st G.A.

Date: April 20, 2016

Status: As Introduced

Sponsor: Rep. Huffman

Local Impact Statement Procedure Required: No

Contents: Authorizes the use of marijuana for medical purposes and establishes the Medical Marijuana Control Program

State Fiscal Highlights

- The Ohio Department of Health (ODH) will experience an increase in costs related to the creation of the Medical Marijuana Control Commission and the Medical Marijuana Control Program. Costs will include salary and reimbursement for Commission members, regulatory staff, development of the required registry and database, and additional costs for equipment, supplies, and a meeting space.
- ODH will realize a gain in medical marijuana licensing fee revenue once the Medical Marijuana Control Program is operational.
- The State Board of Pharmacy estimates an initial development cost of \$750,000 for a medical marijuana reporting system and recurring maintenance costs of approximately \$500,000 per year.
- The Attorney General's Office may realize a minimal increase in administrative costs and a subsequent minimal gain in revenue for required background checks.

Local Fiscal Highlights

- Public hospitals that employ physicians who are registered to recommend treatment with medical marijuana may experience an increase in administrative costs for physicians to maintain certain records and submit required reports to the Commission.
- The legislative authority of a municipal corporation or a board of township trustees may incur minimal administrative costs if it chooses to adopt an ordinance or resolution to prohibit or limit the number of retail dispensaries of medical marijuana.
- County sheriff's offices could realize a minimal increase in administrative costs and a subsequent minimal gain in revenue for required background checks.

Detailed Fiscal Analysis

Medical Marijuana Control Commission membership and duties

The bill establishes the Medical Marijuana Control Commission within the Ohio Department of Health (ODH). The bill outlines the Commission's membership, which consists of nine individuals, each of whom will receive a fixed salary pursuant to existing pay schedules for members of boards or commissions. Members will also receive actual and necessary travel expenses in connection with Commission hearings and business. The appointments to the Commission must be made no later than 30 days after the bill's effective date and the initial meeting of the Commission must be held no later than 30 days after the last member is appointed. The bill specifies that the Commission is not subject to review by the Sunset Review Committee.

The bill requires that the Commission establish a Medical Marijuana Control Program. The program must provide for the licensure of medical marijuana cultivators, processors, retail dispensaries, and laboratories that test medical marijuana, the regulation of physicians that recommend treatment with medical marijuana, as well as the regulation of other activities relating to medical marijuana. The Commission is required to administer the program and may take any action necessary to implement and enforce the bill's provisions.

Not later than one year after its initial meeting, the Commission is required to adopt rules for the program which shall (1) establish procedures and fees for licenses issued under the bill, (2) specify the criminal offenses for which an applicant will be disqualified from licensure, (3) specify the conditions that must be met to be eligible for licensure, (4) establish the number of cultivator and retail dispensary licenses that will be permitted at any one time, (5) establish a license renewal schedule, renewal procedures, and renewal fees, (6) specify reasons for which a license may be suspended or revoked, (7) establish standards under which a license suspension may be lifted, (8) establish procedures for registration of physicians seeking to recommend medical marijuana for treatment and requirements that must be met to be eligible for registration with the Commission, (9) specify the forms in which medical marijuana may be dispensed and the methods by which it may be used, (10) establish standards for medical marijuana packaging that is tamper-resistant, (11) establish labeling requirements for medical marijuana packages, (12) establish training requirements for employees of retail dispensaries, (13) specify when testing of medical marijuana must be conducted by a licensed laboratory, and (14) specify if a cultivator, processor, retail dispensary, or laboratory that is licensed and that existed at a location before a school, church, public library, public playground, or public park became established within 500 feet of the licensee may remain in operation or shall relocate or have its license revoked by the Commission.

The bill specifies that the Commission is required to take all actions necessary to ensure that the program is fully operational not later than two years after the effective date.

The bill requires the Commission, when adopting rules establishing the maximum number of cultivator and retail dispensary licenses that will be permitted at any one time, to take into consideration the population of this state and the number of patients seeking to use medical marijuana. The Commission must also consider the geographic distribution of dispensary sites in an effort to ensure patient access to medical marijuana.

The Commission is required to establish and maintain a medical marijuana registry containing the number of patients for whom treatment with medical marijuana has been recommended and the types of medical conditions for which treatment with medical marijuana has been recommended. The Commission is also required to establish and maintain an electronic database to monitor medical marijuana from its seed source through its cultivation, processing, testing, and dispensing. The bill specifies that the Commission may contract with a separate entity to establish and maintain the database. The database shall allow for information regarding medical marijuana to be updated instantaneously. All persons designated by the Commission shall submit any information the Commission determines is necessary for maintaining the database.

ODH will experience an increase in costs related to the creation of the Medical Marijuana Control Commission and the Medical Marijuana Control Program. Costs will include salary reimbursement for Commission members, development of the required registry and database, and additional costs for equipment, supplies, and a meeting space. ODH also anticipates that additional staff will be needed to perform any regulatory or other day-to-day functions. After the Medical Marijuana Control Program is fully operational, ODH will realize a gain in licensing fee revenue that would help offset these costs. As mentioned above, the program must be fully operational within two years of the effective date.

Administrators as well as owners, officers, or board members of entities seeking a license are required to complete a criminal records check as part of the application process. Background checks can be requested by appearing at a Bureau of Criminal Identification and Investigation office. The base fees of the state-only and Federal Bureau of Investigation (FBI) background checks are \$22 and \$24, respectively. The \$22 state-only background check fee and \$2 of the \$24 FBI background check fee are deposited into the state treasury to the credit of the Attorney General's General Reimbursement Fund (Fund 1060). The remaining \$22 of the FBI background check fee is sent to the FBI. Background checks may also be obtained by county sheriff's offices, which may charge additional fees.

State Board of Pharmacy duties

The bill also requires the State Board of Pharmacy to monitor medical marijuana in its drug database. Each retail dispensary is required to submit to the Board certain information regarding medical marijuana dispensed to a patient. Upon request, a delegate of retail dispensary may also request information from the database relating to a patient. The Board is required to notify the Commission if the Board determines that a violation may have been committed by a retail dispensary. The Board is not permitted to impose any charge on a retail dispensary for the establishment or maintenance of the database. The Board is also required to adopt rules regarding retail dispensaries for the purposes of maintaining the database and must include information from retail dispensaries in its drug database biennial report. Additionally, the bill includes the Commission in the list of recipients of the Board's drug database semiannual report. The bill requires the semiannual report to include an aggregate of the information submitted to the Board regarding medical marijuana.

According to the State Board of Pharmacy, the data required to be submitted under the bill to the Ohio Automated Rx Reporting System (OARRS) differs from the data currently collected by the drug database and the method of data collection. Thus, the Board anticipates that another reporting system will be necessary. The Board estimates an initial development cost of \$750,000 and recurring maintenance costs of approximately \$500,000 per year for the reporting system.

Physicians seeking to recommend treatment with medical marijuana

The bill specifies that a physician seeking to recommend treatment with medical marijuana shall apply to the Commission for registration as a qualifying physician. A physician is required to maintain a record for each patient when recommending treatment with medical marijuana specifying certain information and must also submit reports to the Commission every 90 days specifying the number of patients for whom the physician has recommended treatment with medical marijuana as well as other information. The physician is also required to submit an annual report describing the physician's observations regarding the effectiveness of medical marijuana in treating the physician's patients. Public hospitals that employ physicians who are registered to recommend treatment with medical marijuana may experience an increase in administrative costs for physicians to maintain certain records and submit the required reports to the Commission.

Financial institutions

The bill also exempts financial institutions that provide financial services to any licensed cultivator, processor, retail dispensary, or laboratory from Ohio criminal law if the licensee is in compliance with the bill and tax law. The Commission is required to share certain information with a financial institution upon request and may charge the institution a reasonable fee to cover the administrative cost of providing the information. Financial institutions may also request certain information from the Ohio Department of Taxation regarding tax law compliance by a cultivator, processor, retail

dispensary, or laboratory with whom the institution is seeking to do business. The Commission may charge the financial institution a reasonable fee to cover the administrative cost of providing this information as well.

Employee's use of medical marijuana

The bill specifies that employers are not required to accommodate an employee's use of medical marijuana or refusing to hire, discharging, or taking an adverse employment action because of a person's use of medical marijuana. The bill considers a person discharged from employment because of a person's use to have been discharged for just cause under the Unemployment Compensation Law and thus, ineligible for unemployment benefits, which appears to be similar to current law. The bill also maintains the rebuttable presumption that an employee is ineligible for workers' compensation if the employee was under the influence and being under the influence was the proximate cause of the injury.

Ordinances or resolutions to limit retail dispensaries

The bill provides that agricultural use zoning limitations that apply to counties and townships do not prohibit a county or township from regulating the location of retail dispensaries or prohibiting such dispensaries from being located in the unincorporated territory of the county or township. Additionally, the legislative authority of a municipal corporation or a board of township trustees may adopt an ordinance or resolution to prohibit or limit the number of retail dispensaries of medical marijuana within the municipal corporation or the unincorporated territory of the township. These local entities may incur minimal administrative costs to adopt such regulations.

Intent language

The bill specifies that the General Assembly intends to enact law levying an excise tax on each transaction by which medical marijuana is dispensed to a patient. In addition, the law shall subject persons dispensing medical marijuana to all customary nondiscriminatory fees, taxes, and other charges that are applied to, levied against, or otherwise imposed generally upon other Ohio businesses. The Commission is required to determine for each fiscal year an amount it considers necessary to fund marijuana drug abuse prevention programs. The amount shall be appropriated for that purpose from revenue arising from this excise tax and revenue from license application and renewal fees.

The bill also specifies that the General Assembly intends to recommend that the United States Congress, the Attorney General of the United States, and the United States Drug Enforcement Administration take actions as necessary to classify marijuana as a schedule II controlled substance in an effort to ease the regulatory burdens associated with research on its potential medical benefits. Finally, the bill specifies that the General Assembly intends to establish a program to provide incentives or otherwise

encourage institutions of higher education and medical facilities within this state to conduct academic and medical research regarding medical marijuana.

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