

**LEGISLATIVE BUDGET BOARD**  
**Austin, Texas**

**FISCAL NOTE, 85TH LEGISLATIVE REGULAR SESSION**

**May 7, 2017**

**TO:** Honorable Four Price, Chair, House Committee on Public Health

**FROM:** Ursula Parks, Director, Legislative Budget Board

**IN RE: HB2107** by Lucio III (Relating to authorizing the possession, use, cultivation, distribution, transportation, and delivery of medical cannabis for medical use by patients with certain debilitating medical conditions and the licensing of dispensing organizations and cannabis testing facilities; authorizing fees.), **Committee Report 1st House, Substituted**

**Estimated Two-year Net Impact to General Revenue Related Funds** for HB2107, Committee Report 1st House, Substituted: a positive impact of \$9,288,521 through the biennium ending August 31, 2019.

The bill would make no appropriation but could provide the legal basis for an appropriation of funds to implement the provisions of the bill.

**General Revenue-Related Funds, Five-Year Impact:**

Fiscal Year	Probable Net Positive/(Negative) Impact to General Revenue Related Funds
2018	\$5,075,491
2019	\$4,213,030
2020	\$3,867,364
2021	\$4,213,030
2022	\$3,778,759

**All Funds, Five-Year Impact:**

Fiscal Year	Probable (Cost) from General Revenue Fund 1	Probable Revenue Gain/(Loss) from General Revenue Fund 1	Probable Revenue Gain/(Loss) from Appropriated Receipts 666	Change in Number of State Employees from FY 2015
2018	(\$8,569,359)	\$13,644,850	\$585,900	57.0
2019	(\$5,503,820)	\$9,716,850	\$0	57.0
2020	(\$5,849,486)	\$9,716,850	\$0	57.0
2021	(\$5,503,820)	\$9,716,850	\$0	57.0
2022	(\$5,938,091)	\$9,716,850	\$0	57.0

## **Fiscal Analysis**

The bill would amend the Health & Safety Code and Occupations Code to establish a legal structure to authorize the limited use of medical cannabis for eligible individuals with certain debilitating medical conditions when recommended by physicians registered in the Compassionate Use Registry.

Specifically, the bill would:

- 1) Authorize the possession of approved amounts of medical cannabis for certain registered cannabis testing facilities without prior registration with the Federal Drug Enforcement Administration;
- 2) Replace "low-THC cannabis" with "medical cannabis" for purposes of the current Compassionate Use Act exemption from possessing, delivering cannabis, or cannabis paraphernalia for whom medicinal cannabis has been recommended within allowable limits by a recommending physician;
- 3) Specify the allowable amount of medical cannabis, or the cannabis oil equivalent, for an individual for whom medical use is recommended by a recommending physician is 2.5 ounces, or greater, if allowable by Department of Public Safety (DPS) rules and recommended by a recommending physician;
- 4) Authorize DPS to impose fees sufficient to cover the cost of administering the medical cannabis program;
- 5) Require DPS to adopt rules on the following:
  - allowable amounts of medical cannabis;
  - labeling of medical cannabis, including the contents of cannabis infused oils;
- 6) Require DPS to issue/renew operating licenses to, and register the staff of, cannabis dispensing organizations and cannabis testing facilities;
- 7) Include the name of doctors recommending medical cannabis, as well as the allowable amount of cannabis recommended by a recommending physician to the data collected in the Compassionate Use Registry, and allow a registered physician recommending the use of medical cannabis to input certain safety and efficacy data into the Compassionate Use Registry;
- 8) Require an individual to secure the appropriate license from DPS to operate a dispensary or cannabis testing facility, and would define the eligibility to operate a cannabis testing facility to require a determination by DPS that the applicant possesses the ability to secure the materials and the staff to operate the facility, as well as the ability to sustain operations for not less than two years from the date of the application, and the applicant satisfies any additional criteria determined by DPS;
- 9) Include the testing of medical cannabis to the activities a county may not proscribe relating to medical cannabis;
- 10) Authorize a physician to recommend medical cannabis use for a patient with a debilitating medical condition, as defined in the bill, provided the physician follows certain criteria, formally registers in the Compassionate Use Database, and maintains a treatment plan for the patient;
- 11) Define "medical use" as a means of administration other than by smoking;

12) Require DPS to adopt rules by October 1, 2017, requires DPS to begin licensing cannabis testing facilities by March 1, 2018, provided the applicants for a license have met all requirements for approval.

The bill would take effect immediately with a two-thirds vote of all members of both chambers; if not, the bill takes effect September 1 2017.

Note, implementing the provisions of the bill could conflict with federal law as the federal government regulates substances through the Controlled Substances Act.

## **Methodology**

Based on the analysis of information provided by the Department of Public Safety, this fiscal note estimates there could potentially be a population of up to 251,417 patients who could qualify for medical cannabis under the conditions of the bill. It is assumed that 37,048 caregivers and 982 dispensaries would be needed to provide adequate care and coverage for this population. It is also assumed there could be a total of 39,060 licensed registrants. Given these assumptions, it is presumed DPS will require additional resources out of the General Revenue Fund to implement the provisions of the bill.

It is assumed DPS would need the following additional FTEs:

- Seven Customer Service Representative III positions (\$265,398) to receive, review, process, and issue original and renewal applications for all applicants authorized to receive registry cards, employee registrations, or dispensary and laboratory licenses. These FTEs would also enter applicant information into the compassionate use registry, provide customer service for calls and correspondence, and maintain applicant records and information in the compassionate use database. Two Program Supervisor positions (\$127,232) would be required to supervise these FTEs and develop and maintain the program elements.
- Three Investigator II positions (\$120,417) to process applicant eligibility and background checks, and seven Investigator III positions (\$315,168) and 31 Investigator V positions (\$1,843,663) to conduct one inspection for each dispensary and laboratory applicant, and four quarterly inspections of each licensed dispensary and laboratory statewide and to perform case support and analysis. Supervising these staff would be three Manager I positions (\$204,141) and one Manager IV position (\$83,298).
- Three Program Specialist V positions (\$445,312) would be required for executive administration, information technology, financial management, human capital management, and facilities management. Functions in these indirect strategies include accounting, payroll, human resources, travel, facility maintenance, asset management and related support functions.

Annual benefits costs associated with these 57.0 FTE is estimated to be \$1,246,775.

DPS would require funding to start up and administer the medical cannabis program. It is assumed the agency will require \$1,152,207 in fiscal year 2018 for the equipment required to conduct inspections of cannabis dispensaries and testing facilities. It is also assumed the agency would incur costs associated with administering the program, including material costs for registration cards. It is assumed \$1,888,231 in fiscal year 2018 and \$475,283 in fiscal year 2019 would be required and is included in this fiscal note to cover the various direct and indirect costs of administering the program and to provide the 57.0 FTEs with computers. Funding for utilities

(\$235,392) and consumable supplies (\$138,767) is also included in this fiscal note.

It is assumed DPS will generate \$585,900 in appropriated receipts in fiscal year 2018 from an estimated 39,060 Texas background checks at \$15 each associated with licenses and applications.

It is assumed this bill will require some staff augmentation for the development of a complete application suite to monitor the authorized possession, use, cultivation, distribution, transportation, and delivery of medical cannabis for medical use by qualifying patients with certain debilitating medical conditions and the licensing of dispensing organizations and testing facilities, and to collect any authorizing fees. Staff augmentation for information technology is assumed to total \$447,173 to perform 3,826 hours of development, testing, security evaluation, and implementation. These costs are only assumed in the first year.

This bill is estimated to generate \$23,361,700 in revenue for the 2018-2019 biennium from an estimated 982 Dispensaries Lab applications at \$4,000 each for a total of \$3,928,000, and an annual license inspection at \$9,000 each for a total of \$17,676,000. An estimated 39,060 registrants will be licensed for a two-year period at \$45 each for a total of \$1,757,700.

This analysis assumes the provisions of the bill addressing felony sanctions for criminal offenses would not result in a significant impact on state correctional agencies.

### **Technology**

This bill will require the development of a complete application suite to monitor the authorized possession, use, cultivation, distribution, transportation, and delivery of medical cannabis for medical use by qualifying patients with certain debilitating medical conditions and the licensing of dispensing organizations and testing facilities; and collect any authorizing fees. Staff augmentation for information technology is assumed to total \$447,173 for staff to perform 3,826 hours of development, testing, security evaluation, and implementation. These costs are assumed in the first year only.

### **Local Government Impact**

There could be a positive, if undetermined, fiscal impact to agencies of local government to the degree the bill would reduce the number of cannabis-related misdemeanors.

**Source Agencies:** 212 Office of Court Administration, Texas Judicial Council, 503 Texas Medical Board, 537 State Health Services, Department of, 696 Department of Criminal Justice, 304 Comptroller of Public Accounts, 405 Department of Public Safety, 529 Health and Human Services Commission

**LBB Staff:** UP, JAW, KCA, AI, EMu, AKU, EK, JGA, WP, RC, KVe