

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 85TH LEGISLATIVE REGULAR SESSION

May 1, 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 qualifying patients with certain debilitating medical conditions and the licensing of dispensing organizations and testing facilities; authorizing fees.), **As Introduced**

Estimated Two-year Net Impact to General Revenue Related Funds for HB2107, As Introduced: a positive impact of \$9,213,846 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	\$8,605,196
2019	\$608,650
2020	\$7,673,244
2021	\$363,150
2022	\$7,584,639

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)	\$17,174,555	\$585,900	57.0
2019	(\$5,503,820)	\$6,112,470	\$0	57.0
2020	(\$5,849,486)	\$13,522,730	\$0	57.0
2021	(\$5,503,820)	\$5,866,970	\$0	57.0
2022	(\$5,938,091)	\$13,522,730	\$0	57.0

Fiscal Analysis

The bill would amend the Health & Safety Code to establish a legal structure to authorize the limited use of medical cannabis for certain eligible individuals. Specifically, the bill would:

- 1) Authorize the possession of approved amounts of medical cannabis for certain registered individuals 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;
- 3) Remove civil and criminal penalties for certain registered individuals and organizations (i.e., cardholders, nonresident cardholders, dispensing organizations, cannabis testing facilities, or staff of a dispensing organization) authorized to use, or distribute, medical cannabis and related paraphernalia;
- 4) Require the Department of Public Safety to impose fees sufficient to cover the cost of administering medical cannabis program, and specifies the fee revenues must be used for the medical cannabis program;
- 5) Require DPS to adopt rules on the following:
 - allowable amounts of medical cannabis
 - labeling
 - safety of cannabis cultivation
 - nonresident cardholders;
- 6) Require DPS to issue/renew operating licenses to, and register the staff of, cannabis dispensing organizations and cannabis testing facilities;
- 7) Add resident and nonresident cardholders, as well as doctors recommending medical cannabis, to the data collected in the Compassionate Use Registry;
- 8) Require DPS to license, regulate, and test medical cannabis; adopt an application for a cardholder and caregiver; and issue a registry identification to qualified applicants not later than the 25th day after the date the application was submitted;
- 9) Stipulate that a cardholder may have no more cannabis than would be allowed by DPS, provided that a doctor's prescription for the amount of medical cannabis overrides DPS' rules on the amount of medical cannabis;
- 10) Require DPS to specify the number of cannabis plants allowable for possession by an individual, with a minimum of 6 plants;
- 11) Authorize DPS to charge \$5,000 for an annual licensing fee for dispensing organizations, and \$2,500 for a one-time application fee for a new or renewal dispensing organizations, as well as registrant license fees for employees of cannabis dispensaries and testing facilities, and application fees for registry identification cards for medical practitioners and patients;
- 12) Require DPS to adopt rules by October 1, 2017.

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 \$23,287,025 in revenue for the 2018-2019 biennium from an estimated 982 Dispensaries Lab applications at \$2,500 each for a total of \$2,455,000, and an annual license inspection at \$5,000 each for a total of \$9,820,000. An estimated 39,060 registrants will be licensed for a two-year period at \$245 each for a total of \$9,569,700. An estimated 288,465 Patient and Caregiver one-time registry cards will be issued at \$5 each for a total of \$1,442,325.

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, 537 State Health Services, Department of, 696 Department of Criminal Justice, 304 Comptroller of Public Accounts, 405 Department of Public Safety, 503 Texas Medical Board, 529 Health and Human Services Commission

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