

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 5236-01
Bill No.: HB 1831
Subject: Drugs and Controlled Substances; Health Care; Health Care Professionals; Health Department
Type: Original
Date: April 19, 2006

FISCAL SUMMARY

ESTIMATED NET EFFECT ON GENERAL REVENUE FUND			
FUND AFFECTED	FY 2007	FY 2008	FY 2009
General Revenue	(\$735,840)	(\$532,562)	(\$352,856)
Total Estimated Net Effect on General Revenue Fund	(\$735,840)	(\$532,562)	(\$352,856)

ESTIMATED NET EFFECT ON OTHER STATE FUNDS			
FUND AFFECTED	FY 2007	FY 2008	FY 2009
Total Estimated Net Effect on <u>Other</u> State Funds	\$0	\$0	\$0

Numbers within parentheses: () indicate costs or losses.
This fiscal note contains 10 pages.

ESTIMATED NET EFFECT ON FEDERAL FUNDS			
FUND AFFECTED	FY 2007	FY 2008	FY 2009
Total Estimated Net Effect on <u>All</u> Federal Funds	\$0	\$0	\$0

ESTIMATED NET EFFECT ON LOCAL FUNDS			
FUND AFFECTED	FY 2007	FY 2008	FY 2009
Local Government	\$0	\$0	\$0

FISCAL ANALYSIS

ASSUMPTION

Officials from the **Department of Conservation**, the **Missouri Department of Highway and Transportation**, the **Department of Public Safety - Missouri State Highway Patrol**, the **Department of Economic Development - Division of Professional Registration**, the **Department of Mental Health**, the **Department of Corrections**, the **Office of State Courts Administrator**, and the **Department of Insurance** assume this proposal would not fiscally impact their agencies.

Officials from the **Department of Social Services (DOS)** state that while this proposal puts marijuana on the Schedule II list with accepted medical use, there is no requirement that Medicaid cover any particular drug or add marijuana to the Medicaid drug formulary. Therefore, the DOS assumes that there is no fiscal impact.

Officials from the **Office of Attorney General** assume that any potential costs arising from this proposal could be absorbed with existing resources.

Officials from the **Secretary of State (SOS)** state statewide newspaper publication of state statutes cost approximately \$1,752 per column inch based on estimate provided by the Missouri

ASSUMPTION (continued)

Press Service x 3 for multiple printings as required by the Constitution and state statute = \$5,256 per column inch. SOS estimates total number of inches for this amendment to be 140 inches, which includes title header and certification paragraph. \$5,256 x 140 inches = \$735,840.

SOS states if a special election is called for this purpose rather than being voted on at a general election, the cost of the special election has been estimated to be \$1.2 million based on the cost of the past two such elections.

Oversight assumes this proposal could be voted on at the next general election.

Officials from the **Department of Health and Senior Services (DOH)** state this proposal appears to be based upon a similar program in the State of Oregon, which was initiated in May 1999.

Information from the Oregon Medical Marijuana Program (OMMP) as of January 1, 2006.

Number of patients registered	11,853
Number of caregivers registered	5,693
Number of cards issued January 1, 2005, through December 31, 2005	19,318
Number of registration applications denied	787
Total applications processed	20,105
Number of physicians signing applications	2,089

DOH states the Oregon program is fee-funded through a patient fee of \$100 per application and is staffed by ten (10) FTEs: one program manager and one lead support person who supervises an additional eight support staff. According to the program manager, they are currently receiving and processing 80 to 130 new applications per day. Registration cards are issued on security paper, to prevent counterfeiting or copying, each page/card of which bears an audit number for tracking and an embossed seal. Participants are advised that the program affords them no protection against seizure of plants and equipment or prosecution under federal law.

In the Oregon plan, the allowed indications for use under OMMP: Malignant neoplasms; glaucoma; positive HIV/AIDS status; agitation of Alzheimer's; and other conditions or treatments for a condition that produces one or more of the following -- cachexia, severe pain, severe nausea, seizures (including but not limited to seizures caused by epilepsy), persistent muscle spasms (including but not limited to spasms caused by multiple sclerosis).

DOH states this proposal would allow for use of marijuana for only the following "debilitating

ASSUMPTION (continued)

conditions": Cancer; glaucoma; positive HIV/AIDS status; and other conditions or treatments for a condition that produces one or more of the following -- cachexia, severe pain, severe nausea, anorexia, seizures (including those characteristic of epilepsy), or severe and persistent muscle spasms (including those characteristic of multiple sclerosis or Crohn's disease). The Oregon program allows the use of marijuana to treat agitation of Alzheimer's and excludes use for anorexia. DOH states this proposal proposes to add the use of marijuana for anorexia and excludes agitation of Alzheimer's. DOH assumes that the number of patients for each of these conditions is similar for the purposes of this fiscal note.

ASSUMPTIONS

2005 Population of Oregon – 3,641,056 (Source -- US Census)

2005 Population of Missouri – 5,800,310 (Source -- US Census)

Based upon the information shown above from the Oregon program, DOH makes the following assumptions for the purposes of providing a fiscal estimate for the proposed legislation.

Number of Individuals Applying for the Program

A 10% increase in the number of Oregon applications from 2005 to 2006.

$20,105 \times 1.10 = 22,116$ per year.

$22,116 / 3,641,056 = .6074\%$ of the population would utilize Medical Marijuana.

Based on those same percentages, 35,231 individuals in Missouri would apply under the program.

$5,800,310 \times .0674\% = 35,231$; rounded to 35,200 for the purposes of this fiscal estimate.

Number of Physicians Participating

2,089 physicians participate in Oregon, or .05737% of the population. $2,089 / 3,641,056 = .05737\%$.

Based on this percentage, 3,328 physicians would participate in Missouri.

$5,800,310 \times .05737\% = 3,328$; rounded to 3,300 for the purposes of this fiscal note.

Number of Inspections

DOH assumes primary verification of patient conditions will be provided by requiring physician signature on applications verifying the diagnoses noted. Random inspections of patient records of 25% of participating physicians would be conducted each year to verify diagnoses (post registration).

$3,300 \times 25\% = 825$ inspections per year/ 12 = 68.75 inspections per month; rounded to 65 for the

ASSUMPTION (continued)

purposes of this fiscal note.

DOH assumes physicians would be located primarily in highly populated areas, with fewer out-state, DOH assumes that it will be possible to perform an average of two inspections per work day, allowing for travel time and inspection report generation. DOH assumes an average of 20 workdays per month, 40 inspections could be performed per month. These individuals will also work with law enforcement on violations of the law.

Number of Registered Organizations

DOH assumes that there will be no more than ten registered organizations. Oversight of registered organizations would also be performed.

PERSONAL SERVICES

One Health Program Rep III will be required to administer the program, respond to inquiries from other agencies and the public, prepare program materials and web site information, and to analyze statistics and prepare reports to upper management, other agencies and the public.

Two Investigator II positions will be required to perform random inspections of patient records in participating physician offices and to perform oversight of the activities of registered organizations.

One Administrative Office Support Assistant will be required to provide clerical support to the Health Program Rep III and the Investigator II positions, to compile program statistics, to oversee day-to-day registration program functions, to supervise registration staff, and to respond to routine inquiries from the public regarding the program.

DOH states timeframes for issuing registration cards are established in this proposal. DOH shall verify the information submitted in the application, and shall approve or deny an application within thirty days of receipt of the application. DOH shall issue registry identification cards within five days of approval. Registration cards shall expire one year after issuance. Based on the Oregon program, DOH estimates the need for twelve FTE to process applications.
 $22,116 / 8 = 2,764$ applications per FTE.

Twelve Office Support Assistants will be needed to perform day to day processing of applications.

$35,200 \text{ Missouri applications} / 2,764 \text{ per FTE} = 12 \text{ FTE}$

DOH states according to the program manager of the Oregon Medical Marijuana Program, with

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ASSUMPTION (continued)

current staffing, they are currently receiving and processing 80 to 130 new applications per day.

DOH assumes the establishment of this program will be immediate. After a brief initial "phasing-in" period as individuals become familiar with the documentation requirements of the program, it is anticipated that a large number of applications will be received.

One Computer Information Technologist III will provide customer service, support and assistance. This position will also assist with the on-going reporting requirements and assist with enhancement implementations and maintenance releases.

EXPENSE AND EQUIPMENT

DOH states standard per FTE costs are included in this fiscal estimate, along with the following additional costs.

DOH assumes that it will cost \$10 to print and mail each registration card. 35,200 applications per year x \$10 = \$352,000

An application server including hardware and software: \$10,000 (one-time cost).

REVENUE

DOH states this proposal indicates a registration fee not to exceed \$25 can be charged for each qualifying patient and that the registration expires annually. DOH states the proposal does not indicate that a fee can be charged for registered caregivers. In Oregon, 68% of the registrations on January 1, 2006, were for patients (11,853 patients , 17,564 patients + caregivers). If the assumption is made that 68% of Missouri's projected 35,200 applications were related to patients, this would result in 23,936 qualifying patients to be charged the \$25 fee in FY 2007. For the purposes of estimating revenue, DOH assumes a 10% increase in registrants annually.

FY	Annual Increase	# of Registrants	Registration Fee	Revenue Per Year
2007	---	23,936	\$25	\$598,400
2008	10%	26,330	\$25	\$658,250
2009	10%	28,963	\$25	\$724,075

ASSUMPTION (continued)

Oversight has, for fiscal note purposes only, changed the starting salary for the DOH positions to correspond to the first step above minimum for comparable positions in the state's merit system pay grid. This decision reflects a study of actual starting salaries for new state employees for a six month period and the policy of the Oversight Subcommittee of the Joint Committee on Legislative Research.

Oversight assumes since the election will be in November, 2006, the program would not start until FY 08 and has adjusted DOH costs accordingly.

Officials from the **Jefferson City Police Department** and the **Boone County Sheriff's Department** assume this proposal would not fiscally impact their organizations.

Officials from the **State Public Defender** and **Office of Prosecution Services** did not respond to our fiscal note request.

<u>FISCAL IMPACT - State Government</u>	FY 2007 (10 Mo.)	FY 2008	FY 2009
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GENERAL REVENUE

Income - Department of Health and
Senior Services

Registration of participants		\$658,250	\$724,075
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Costs - Secretary of State

Publication costs	(\$735,840)	\$0	\$0
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Costs - Department of Health and Senior Services

Personal Services (17 FTE)	\$0	(\$427,044)	(\$437,720)
Fringe benefits	\$0	(\$188,155)	(\$192,859)
Expense and equipment	\$0	(\$223,613)	(\$94,352)
Identification card expense	<u>\$0</u>	<u>(\$352,000)</u>	<u>(\$352,000)</u>
<u>Total Costs - Department of Health and Senior Services</u>	<u>\$0</u>	<u>(\$1,190,812)</u>	<u>(\$1,076,931)</u>

ESTIMATED NET EFFECT ON GENERAL REVENUE

	<u>(\$735,840)</u>	<u>(\$532,562)</u>	<u>(\$352,856)</u>
<u>FISCAL IMPACT - Local Government</u>	FY 2007 (10 Mo.)	FY 2008	FY 2009
	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>

FISCAL IMPACT - Small Business

No direct fiscal impact to small businesses would be expected as a result of this proposal.

DESCRIPTION

This proposal changes the laws regarding the classification of marijuana as a controlled substance. In its main provisions, the proposal:

- (1) Removes marijuana from the Schedule I classification for controlled substances and reclassifies it under Schedule II;
- (2) Prohibits the arrest or prosecution of a qualifying patient who possesses a written certification for the use of marijuana for medical purposes. A qualifying patient younger than 18 years of age is also exempt from arrest or prosecution if a parent or guardian consents to and controls the use of marijuana for medical purposes;
- (3) Prohibits a physician from being subject to arrest, prosecution, penalty, or denial of any right for providing written certification for the medical use of marijuana to a qualifying patient;
- (4) Requires that marijuana, drug paraphernalia, or other property seized from a qualifying patient or primary caregiver in connection with the claimed medical use of marijuana be returned to the patient or caregiver following a determination by a court or prosecutor that these persons

DESCRIPTION (continued)

are entitled to the protections contained in the bill;

(5) Prohibits the medical use of marijuana when it endangers the health or well-being of another or while a person is operating heavy machinery or driving an automobile. The smoking of marijuana is prohibited in a school bus, public bus, or other public vehicle; in the workplace; on school grounds; in a correctional facility; or at any public park, public beach, public recreation center, or youth center;

(6) Exempts insurance companies from providing coverage for the medical use of marijuana;

(7) Prohibits the fraudulent representation of the medical use of marijuana to any law enforcement official. Violations of this provision will be subject to criminal and monetary penalties;

(8) Allows a qualifying patient or a primary caregiver to assert a defense for the medical use of marijuana based on certain conditions;

(9) Requires the Department of Health and Senior Services to develop rules for governing the issuance of registry identification cards. A qualifying patient and primary caregiver are required to submit certain information before receiving the card. Possession of the card by a qualifying patient or a primary caregiver is required;

(10) Requires the department to maintain a confidential list of persons who have been issued a card; and

(11) Requires an organization to register with the department to sell, administer, deliver, dispense, distribute, cultivate, or possess marijuana or related supplies for medicinal use.

The bill has a referendum provision and will be submitted to qualified voters by November 2006.

This legislation is not federally mandated, would not duplicate any other program and would not require additional capital improvements or rental space.

SOURCES OF INFORMATION

Department of Conservation
Missouri Department of Highway and Transportation
Department of Public Safety -
 Missouri State Highway Patrol
Department of Economic Development -
 Division of Professional Registration
Department of Mental Health
Department of Corrections
Office of State Courts Administrator
Department of Insurance
Department of Social Services
Office of Attorney General
Secretary of State
Department of Health and Senior Services
Jefferson City Police Department
Boone County Sheriff's Department

NOT RESPONDING: Office of Prosecution Services and State Public Defender



Mickey Wilson, CPA
Director
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