



**SOUTH CAROLINA REVENUE AND FISCAL AFFAIRS OFFICE**  
**STATEMENT OF ESTIMATED FISCAL IMPACT**  
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<b>Bill Number:</b>	H. 3081	Introduced on January 8, 2019
<b>Author:</b>	Henderson-Myers	
<b>Subject:</b>	Medical Use Marijuana Act	
<b>Requestor:</b>	House Medical, Military, Public, and Municipal Affairs	
<b>RFA Analyst(s):</b>	Shuford and Gardner	
<b>Impact Date:</b>	March 29, 2019 Updated for Additional Agency Response	

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### **Fiscal Impact Summary**

This bill will increase expenditures by \$4,718,243 in FY 2019-20 for the Department of Health and Environmental Control (DHEC) to administer the South Carolina Medical Use of Marijuana Act. These expenditures include \$2,076,196 in recurring salaries and employer contributions for 30.00 FTEs. Non-recurring other operating expenditures will increase by \$2,642,047 in FY 2019-20. Recurring expenditures beginning in FY 2020-21 will total \$2,832,916 and include \$2,076,196 in salaries and employer contributions for 30.00 FTEs. Recurring other operating expenditures will total \$756,720 beginning in FY 2020-21.

While this bill authorizes fees, DHEC indicates that revenue collected during the first year may be minimal. Given the potential lag in revenue collections, DHEC expects to rely on General Fund appropriations of \$4,718,243 to establish the program in FY 2019-20. For FY 2020-21, we anticipate that Other Funds from fees and monetary penalties will fund the expected \$2,832,916 in recurring expenditures.

The expenditure impact of this bill on the State Law Enforcement Division (SLED) will increase recurring General Fund expenditures by \$7,044,111 in FY 2019-20 for the salaries, fringe benefits, and other operating costs for 77 new FTEs. Non-recurring General Fund expenditures will increase by \$3,845,500 in FY 2019-20. These expenditures are based on the anticipated increase in SLED's statutorily mandated responsibilities in providing narcotics enforcement and interdiction. This fiscal impact statement has been updated based on a response by SLED.

The Judicial Department indicates that the bill may create new perjury cases from false statements included in an application. This form of perjury is a misdemeanor offense punishable by imprisonment for not more than six months or a fine of not less than one hundred dollars, or both. As the bill creates a new mechanism for committing perjury, there is no data available that may be used to estimate any increase in the number of hearings or trials that will be held. The department will use existing General Funds to manage any additional costs resulting from an increase in caseloads. Therefore, this bill will have no impact on the General Fund, Other Funds, or Federal Funds of the Judicial Department.

Based on the number of medical marijuana registrations in other states with similar laws, we estimate that 29,705 certified patients and designated caregivers will apply for registry identification cards. At \$50 per application, \$1,485,250 in fees may be collected on these applications. However, the amount of the application fee for the registered organizations has not

been set by DHEC or approved by the General Assembly in a regulation. Therefore, the revenue impact to Other Funds is undetermined.

## **Explanation of Fiscal Impact**

**Updated for Additional Agency Response on March 29, 2019**

**Introduced on January 8, 2019**

### **State Expenditure**

This bill allows the lawful possession, acquisition, use, delivery, transportation, or administration of medical marijuana by a certified patient or designated caregiver possessing a valid registry identification card for certified medical use. Possession of medical marijuana is not lawful if it is smoked, consumed, vaporized, or grown in a public place.

**Department of Health and Environmental Control.** Upon physician certification that a patient is likely to receive therapeutic or palliative benefit from medical use of marijuana, DHEC shall issue registry identification cards for certified patients and designated caregivers. A registry application or renewal must include a \$50 application fee. If a certified patient or designated caregiver loses a registry identification card, DHEC may impose a \$25 fee to maintain registration. DHEC may impose higher fees for second and subsequent replacements. In cases of financial hardship, DHEC may waive or reduce these fees. DHEC shall establish a confidential list of persons to whom it has issued registry identification cards to verify to law enforcement personnel whether a registry identification card is valid.

Registered organizations are required to apply for registration with DHEC. Registrations will be granted if DHEC is satisfied that the applicant is able to maintain effective control against marijuana diversion, the applicant is able to properly perform the required manufacturing or distribution activities, and other conditions as required by the bill or as determined by the department. Registered organizations shall file any receipt and certification information with DHEC by electronic means on a real time basis as required by the department. DHEC may register no more than five registered organizations that manufacture medical marijuana. Each registered organization may have up to four dispensing sites. The registration fee for registered organizations must be a reasonable amount determined by DHEC in regulation.

Before full implementation of this bill, DHEC shall establish the Emergency Medical Marijuana Access Program to expedite the availability of medical marijuana. DHEC shall implement the program expeditiously as practicable, including the use of emergency regulation. Finally, every sale of medical marijuana must be at the per dose price determined by DHEC.

DHEC indicates that this bill will increase expenditures by \$4,718,243 in FY 2019-20. These expenditures include \$2,076,196 in recurring salaries and employer contributions for 30.00 FTEs. Non-recurring other operating expenditures of \$2,642,047 for start-up operations will include the following:

- Consultants to assist with the initial establishment and implementation of the program - \$650,000
- Implementation of the seed-to-sale tracking system - \$400,000

- Implementation of the electronic registry of certified patients and designated caregivers - \$450,000
- Registry identification card equipment and card stock - \$26,000
- Computer equipment, vehicles, and office furniture.

Recurring expenditures in year two will total \$2,832,916 and include \$2,076,196 in salaries and employer contributions for 30.00 FTEs. Recurring other operating expenditures of \$756,720 will include the following:

- Maintenance of the seed-to-sale tracking system - \$80,000
- Maintenance of the electronic registry of qualifying patients and designated caregivers - \$130,000
- Registry identification card equipment and card stock - \$120,000
- Computer software subscriptions, equipment, office supplies, and consulting services.

While this bill authorizes fees, DHEC indicates that revenue collected during the first year may be minimal. Given the potential lag in revenue collections, DHEC expects to rely on General Fund appropriations of \$4,718,243 to establish the program in FY 2019-20. For FY 2020-21, we anticipate that Other Funds from fees will fund the expected \$2,832,916 in recurring expenditures.

**State Law Enforcement Division.** Registry identification cards or registered organizations registrations shall become effective no later than eighteen months from the effective date of this bill or when the Director of DHEC and the Chief of SLED certify that this bill can be implemented in accordance with public health and safety interests, whichever event comes later.

SLED, pursuant to Section 23-3-15(A)(3), has the exclusive statewide jurisdiction and authority for covert investigations of illegal activities pertaining to the interdiction of narcotics and other illicit substances. In addition, Section 44-53-480 requires SLED to establish a Department of Narcotics and Dangerous Drugs, which is primarily responsible for the enforcement of all laws pertaining to illicit traffic in controlled and counterfeit substances.

Based on a review of crime statistics from states that have adopted similar medical cannabis statutes, SLED anticipates the Medical Cannabis Program will increase violent crimes, other illegal drug use, and black market sales of marijuana. SLED suggests that the bill will significantly increase their responsibilities in providing statutorily mandated narcotics enforcement and interdiction.

These increased responsibilities may require the agency to establish a new Marijuana Enforcement Unit to manage instances of unlawful use or purchase of cannabis products. This unit will be comprised of at least 56 new narcotics agents to provide enforcement, as well as 3 lieutenants and 1 captain to provide oversight. The unit will also require 4 administrative support staff members, 1 for each of the agency's 4 regional offices. The unit will incur recurring costs associated with salaries and fringe for new staff, as well as charges for gasoline, cellular telephone and Wi-Fi hotspot services, mobile and portable 800 radio services, uniform replacements, training, information technology licenses, and vehicle maintenance. The unit will also incur non-recurring operating costs, including those associated with the purchase of

vehicles, protective vests, ammunition, duty belts and holsters, uniforms, personal protective equipment, computer equipment, and Law Enforcement Academy expenses.

SLED anticipates that state and local law enforcement actions in support of the bill will require additional laboratory testing and analysis as it is impossible to visually discern the difference between a hemp and a marijuana plant. This will require the agency to create a Laboratory Marijuana Unit consisting of at least 6 additional drug chemists and 4 additional forensic technicians. This unit will incur recurring costs associated with salaries and fringe for new staff; charges for cellular telephone service, training, and travel; charges related to the continuous operation of the gas chromatography mass spectrometer instruments (including consumables, licenses, and maintenance); and real estate charges for expanded space to house the new staff and equipment. The unit will incur non-recurring operating costs to include charges for new cellular telephones and computers, as well as one-time costs for the purchase of 4 new gas chromatography mass spectrometers.

The agency will also hire additional administrative support staff in order to implement the provisions of the bill. This new staff will include 1 additional attorney to provide specialized guidance and legal support. To support the increased number of agents and lab staff, the agency indicates the need for 1 additional fiscal analyst, and 1 additional information technology staff member.

Overall, the bill will require the agency to hire 77 new FTEs, and will result in a total recurring General Fund expenditure impact of \$7,044,111 and a total non-recurring General Fund expenditure impact of \$3,845,500 in FY 2019-20. This fiscal impact statement has been updated based on a response by SLED.

**Judicial Department.** The bill requires certified patient and designated caregiver applicants to provide certain information, including a statement attesting that false statements included in an application constitute perjury. This form of perjury is a misdemeanor offense punishable by imprisonment for not more than six months or a fine of not less than one hundred dollars, or both. As the bill creates a new mechanism for committing perjury, there is no data available that may be used to estimate any increase in the number of hearings or trials that will be held. The department will use existing General Funds to manage any additional costs resulting from an increase in caseloads.

### **State Revenue**

This bill imposes a \$50 fee for registry application or renewal. If a certified patient or designated caregiver loses a registry identification card, DHEC may impose a \$25 fee to maintain registration. DHEC may impose higher fees for second and subsequent replacements. In cases of financial hardship, DHEC may waive or reduce these fees. Additionally, registered organizations are required to apply for registration with DHEC, and the registration fee must be a reasonable amount determined by DHEC in regulation. A registered organization may apply to amend their registration to relocate within the State or change the permitted activities or number of locations. The fee for the amended registration is \$250.

Based on the number of medical marijuana registrations in other states with similar laws, we estimate that approximately 5.74 persons per 1,000 residents in South Carolina will apply for certified patient and designated caregiver licenses. With an estimated South Carolina population of 5,175,000 in 2020, this suggests an estimated 29,705 certified patient and designated caregiver license applications. At \$50 per application, \$1,485,250 in fees may be collected on these applications. However, the amount of the application fee for the registered organizations has not been set by DHEC or approved by the General Assembly in a regulation. Therefore, the revenue impact to Other Funds is undetermined.

### **Local Expenditure**

N/A

### **Local Revenue**

N/A

### **Updated for Additional Agency Response on February 27, 2019**

### **Introduced on January 8, 2019**

### **State Expenditure**

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**State Law Enforcement Division.** Registry identification cards or registered organizations registrations shall become effective no later than eighteen months from the effective date of this bill or when the Director of DHEC and the Chief of SLED certify that this bill can be implemented in accordance with public health and safety interests, whichever event comes later. SLED is working to provide an estimated fiscal impact for this responsibility. Therefore, the expenditure impact of this bill is pending, contingent upon a response from SLED.

**Judicial Department.** The bill requires certified patient and designated caregiver applicants to provide certain information, including a statement attesting that false statements included in an application constitute perjury. This form of perjury is a misdemeanor offense punishable by imprisonment for not more than six months or a fine of not less than one hundred dollars, or both. As the bill creates a new mechanism for committing perjury, there is no data available that may be used to estimate any increase in the number of hearings or trials that will be held. The department will use existing General Funds to manage any additional costs resulting from an increase in caseloads.

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### **Local Expenditure**



N/A

**Local Revenue**

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Frank A. Rainwater, Executive Director