



**SOUTH CAROLINA REVENUE AND FISCAL AFFAIRS OFFICE**  
**STATEMENT OF ESTIMATED FISCAL IMPACT**  
**(803)734-3780 • RFA.SC.GOV/IMPACTS**

*This fiscal impact statement is produced in compliance with the South Carolina Code of Laws and House and Senate rules. The focus of the analysis is on governmental expenditure and revenue impacts and may not provide a comprehensive summary of the legislation.*

---

<b>Bill Number:</b>	H. 3226	Introduced on January 10, 2023
<b>Author:</b>	Rutherford	
<b>Subject:</b>	Put Patients First Act	
<b>Requestor:</b>	House Medical, Military, Public, and Municipal Affairs	
<b>RFA Analyst(s):</b>	Griffith, Gardner, and Bryant	
<b>Impact Date:</b>	February 9, 2023	

---

### **Fiscal Impact Summary**

This bill allows a registered patient to engage in the medical use of marijuana in a quantity that is medically necessary to address a debilitating medical condition. The Department of Health and Environmental Control (DHEC) must manage the program and may promulgate and enforce regulations to implement the provisions of the bill.

The bill will increase expenditures of DHEC by \$4,777,000 in FY 2023-24 to administer the program. These expenditures include \$2,461,000 in recurring salaries and employer contributions for 31.0 FTEs. Non-recurring operating expenditures will increase by \$1,580,000 in FY 2023-24. Recurring expenditures beginning in FY 2024-25 will total \$3,197,000 and include \$2,461,000 in salaries and employer contributions for the new FTEs. Recurring operating expenditures will total \$736,000 beginning in FY 2024-25.

While this bill authorizes fees and monetary penalties that must be used for the direct and indirect costs associated with the implementation, administration, and enforcement of this bill, 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 \$4,778,000 to establish the program in FY 2023-24. For FY 2024-25, DHEC indicates that Other Funds from fees and monetary penalties will fund the expected \$3,197,000 in recurring expenditures.

The South Carolina Law Enforcement Division (SLED) anticipates a need for 22.0 FTEs, equipment, and operating expenses for additional enforcement of illegal marijuana operations. Based on an analysis of other states, the agency anticipates an increase in illegal marijuana activity because of the bill. This would require General Fund appropriations of \$4,402,486 in FY 2023-24. Expenses will decrease to \$2,782,886 in FY 2024-25 and each year thereafter for the new FTEs and operating expenses.

Judicial will use existing General Funds to manage any additional costs resulting from any increase in caseloads. Therefore, there is no expenditure impact for Judicial from the potential increased caseload due to the new misdemeanor and felony offenses established by the bill.

The Office of the Attorney General indicates this bill will have no expenditure impact.

Section 44-53-2690 specifies that marijuana and marijuana paraphernalia sold, purchased, or otherwise transferred pursuant to this bill is tangible personal property whose retail sales are subject to the provisions of Chapter 36, Title 12. Therefore, all sales of medical marijuana products are subject to a 6 percent sales tax. The imposition of this tax will increase revenue by an estimated \$126,000 in FY 2024-25, \$607,000 in FY 2025-26, \$1,222,000 in FY 2026-27, \$2,190,000 in FY 2027-28, and \$2,760,000 in FY 2028-29 from a 6 percent sales tax on medical marijuana purchases. Based on trends in states that have passed similar medical marijuana bills, we anticipate that revenues will continue to grow as additional patients become registered identification card holders. Revenues will be distributed with specified percentages to the General Fund, Education Improvement Act (EIA) Fund, and the Homestead Exemption Act (HEX) Fund.

Additionally, this bill authorizes DHEC to establish and collect processing fees for applications submitted by patients, caregivers, and dispensaries. As these are new fees, and the amount of each is to be determined by DHEC, there is no data with which to estimate the amount of revenue increase. The bill does not state that the agency may retain these fees or where these funds will be retained. The Revenue and Fiscal Affairs Office (RFA) expects this will be determined at a later date. Therefore, this bill will increase revenue by an undetermined amount in FY 2023-24.

Based upon a three-year historical average, SLED was able to retain an average of \$10,375,000 from background checks for its \$25 portion of the fee. Assuming a similar pattern in future years and since this amount is over the \$4,461,000 amount that is allocated to the General Fund pursuant to proviso, we anticipate that Other Funds of SLED will increase by an undetermined amount in FY 2023-24 as a result of the potential increase in background checks. There would be no increase to the General Fund for this portion of the bill.

Marijuana and marijuana paraphernalia sold pursuant to this bill are also subject to local option sales tax. The imposition of this tax will increase local revenue by an estimated \$34,000 in FY 2024-25, \$165,000 in FY 2025-26, \$332,000 in FY 2026-27, \$595,000 in FY 2027-28, and \$750,000 in FY 2028-29 from local option sales taxes.

The bill allows a resident of the State who owns agricultural property that is taxed pursuant to Section 12-43-220(d) to register as a dispensary by complying with the provisions of the bill. Depending on how this portion of the bill is interpreted, it could have an impact on local property taxes if the section permits a taxpayer to retain an agricultural assessment on property that would otherwise be reclassified as commercial property due to the dispensary. We have contacted local governments regarding the potential impact of this section and received varying responses about the interpretation, with some counties expecting this section to have no impact on property taxes and other expecting this to allow a taxpayer to retain the agricultural assessment on property that would otherwise be reclassified as commercial. Reclassifying agricultural property as commercial would increase property tax revenue. Beaufort, Chesterfield, and Dorchester Counties responded to our request. However, the counties were not able to estimate the potential impact this provision could have on local property taxes. For reference, agricultural property,

including both private and corporate, accounts for approximately 0.5 percent of all assessed property value in the state and varies widely by county.

This bill may increase the number of court cases, which may result in an increase in the fines and fees collected in court. Court fines and fees are distributed to the General Fund, Other Funds, and local funds. Therefore, RFA anticipates this bill may result in an undetermined increase to General Fund, Other Funds, and local revenue due to fines and fees collections in court.

## **Explanation of Fiscal Impact**

### **Introduced on January 10, 2023**

#### **State Expenditure**

This bill allows a registered patient to engage in the medical use of marijuana in a quantity that is medically necessary to address a debilitating medical condition. DHEC must manage the program and may promulgate and enforce regulations to implement the provisions of the bill.

**The Department of Health and Environmental Control.** This bill requires the following from DHEC no later than one year from the date of the enactment of the bill:

- the creation of a confidential registry of patients who have applied for a card authorizing the medical use of marijuana,
- the development of an application form to be listed on the confidential registry,
- the development of a medical verification form for physicians,
- the promulgation of regulations and the development of guidelines for the registry, patient application, physician verification, card suspension, dispensary application and security, and consumer protection requirements processes, and
- the development of the process for receipt and review of petitions for inclusion of a disease or medical condition as a debilitating medical condition.

DHEC indicates that the bill will increase expenditures by approximately \$4,777,000 in FY 2023-24. These expenditures include \$2,461,000 in recurring salaries and employer contributions for 31 FTEs. Non-recurring other operating expenditures of \$1,580,000 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 registry system - \$450,000;
- Registry identification card equipment and card stock - \$20,000; and
- Computer equipment, vehicles, and office furniture - \$460,000.

Recurring expenditures in year two will total \$3,197,000 and include \$2,461,000 in salaries and employer contributions for 31 FTEs. Recurring other operating expenditures of \$736,000 will include the following:

- Maintenance fee for the registry system - \$130,000;
- Registry identification card equipment and card stock - \$120,000; and
- Equipment, office supplies, vehicles and travel, and consulting services - \$486,000.

While this bill authorizes fees and monetary penalties that must be used for the direct and indirect costs associated with the implementation, administration, and enforcement of this bill, 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 \$4,777,000 to establish the program in FY 2023-24. For FY 2024-25 and subsequent fiscal years, DHEC indicates that Other Funds from fees and monetary penalties will fund the expected \$3,197,000 in recurring expenditures.

**State Law Enforcement Division.** The State Law Enforcement Division (SLED) reports that there is typically an increase in illegal acts following the legalization of marijuana for medicinal use. SLED noted that the state of Oregon, which has approximately 4.2 million residents and legalized medical marijuana in 1998, authorized \$32 million in law enforcement funding to enforce illegal marijuana operations. South Carolina has a population of approximately 5.1 million people, many of whom live in rural areas, which are vulnerable to illegal marijuana growing operations. SLED anticipates it will need to hire the following personnel to increase its marijuana enforcement operations as shown in the table below:

<b>PERSONNEL EXPENSES - RECURRING</b>				
<b>Position Title</b>	<b># of FTEs</b>	<b>Salary</b>	<b>Fringe</b>	<b>Total Personnel</b>
Agent	16	\$63,909	\$25,553	\$1,431,392
Lieutenant	1	\$85,000	\$37,400	\$122,400
Marijuana Analysts	5	\$59,000	\$25,960	\$424,800
<b>TOTAL PERSONNEL</b>	<b>22</b>	<b>\$1,402,544</b>	<b>\$576,048</b>	<b>\$1,978,592</b>

SLED also anticipates it will need to procure additional equipment and that it will incur new operational expenses, as shown below:

<b>EQUIPMENT AND OPERATING EXPENSES</b>			
<b>RECURRING</b>		<b>NON-RECURRING</b>	
Gas	\$134,400	Vehicles	\$960,000
I-phones with hotspot	\$12,800	Protective vests and covers	\$40,000
Mobile and portable 800 radio service	\$25,600	Firearms, duty belts, and holsters	\$17,600
Other recurring costs	\$9,600	Automatic rifles	\$24,000
Uniform replacement	\$9,600	Uniforms, boots, raingear, protective gloves, handcuffs, PPE, and other	\$72,000
Training/travel	\$24,000	Computer equipment	\$66,000
Technology licenses	\$19,200	GC mass spectrometers	\$390,000
1/5 vehicle replacement	\$192,000	10 precision balances (2 per analyst)	\$50,000
Class III personnel	\$6,000		
Consumables	\$120,000		
Maintenance contracts for instruments	\$15,000		
Helicopter surveillance annual per hour fuel costs	\$23,6094		
<b>TOTAL RECURRING</b>	<b>\$804,294</b>	<b>TOTAL NON-RECURRING</b>	<b>\$1,619,600</b>

SLED estimates that the annual General Fund expenditure impact from the passage of the bill will be \$2,782,886 in FY 2023-24 and each year thereafter. Additionally, the agency estimates that the non-recurring expenditure impact will be \$1,619,600 for FY 2023-24. The total expenditure impact for FY 2023-24 will therefore be \$4,402,486 as shown in the table below:

<b>RECURRING (FY 2023-24 and beyond)</b>		<b>NON-RECURRING (FY 2023-24 only)</b>	
Personnel salary/fringe	\$1,978,592	Equipment and other	\$1,619,600
Operating costs	\$804,294		
<b>TOTAL RECURRING</b>	<b>\$2,782,886</b>	<b>TOTAL NON-RECURRING</b>	<b>\$1,619,600</b>
<b>GRAND TOTAL GENERAL FUND EXPENDITURE IMPACT FOR FY 2023-24 = \$4,402,486</b>			

Further, criminal background checks are required on all registered caregivers and employees and agents of a dispensary. Also, criminal background checks may be required on principal officers and board members of dispensaries. RFA anticipates that this responsibility will have no expenditure impact on SLED since we expect that the agency will be able to manage any increase in criminal background searches with existing appropriations and with existing staff.

**Judicial.** This bill creates two new misdemeanors for knowingly making a misrepresentation to a law enforcement official of any fact or circumstance related to the medical use of cannabis to avoid arrest or prosecution and knowingly making a misrepresentation of a medical condition to a physician in order to obtain a registry identification card. Upon conviction, these actions are punishable by a fine of up to \$500 per offense, imprisonment of no more than six months, or both.

Additionally, the bill creates a new misdemeanor for both the fraudulent use or theft of a registry identification card and the fraudulent production or counterfeiting of, or tampering with, a registry identification card. Each of these misdemeanors is punishable by a fine of up to \$500 per offense, imprisonment of no more than six months, or both. A person, including a DHEC employee or a state or local law enforcement agency official, who releases or makes public information from the confidential registry without written authorization, is also guilty of a misdemeanor, punishable by a fine of up to \$500 per offense, imprisonment of no more than six months, or both. Registered patients and registered caregivers not in possession of their registry identification card when using medical marijuana are also guilty of a misdemeanor, punishable by a fine of up to \$100, imprisonment of no more than 30 days, or both.

Lastly, the bill creates a new felony for an employee or agent of a marijuana dispensary who intentionally sells or transfers marijuana in exchange for anything of value to a person or entity other than a registered patient, registered caregiver, or another dispensary. This felony is punishable by a fine of up to \$3,000, imprisonment of no more than two years, or both.

As the bill creates new mechanisms for committing misdemeanors and felonies, there are no data available that may be used to estimate any increase in the number of hearings or trials that will be held. Judicial will use existing General Funds to manage any additional costs resulting from an increase in caseloads. Therefore, there is no expenditure impact to Judicial.

**Office of the Attorney General.** This bill requires a DHEC employee or a state or local law enforcement official who reasonably believes that a patient or caregiver has fraudulently represented a medical condition or the nature of a caregiver's assistance to a patient, to a physician, DHEC, or state or local enforcement to report the information to the Attorney General or to the county solicitor. The agency indicates this bill will have no expenditure impact.

### **State Revenue**

This bill specifies that marijuana and marijuana paraphernalia sold, purchased, or otherwise transferred pursuant to this bill is tangible personal property whose retail sales are subject to state sales and use tax pursuant to the provisions of Chapter 36, Title 12. Therefore, all sales of medical cannabis products are subject to a 6 percent state sales tax and any applicable local sales taxes.

Minnesota enacted the *Minnesota Medical Marijuana Act* in 2014 with many of the same medical restrictions as the *Put Patients First Act*. This analysis utilizes data provided by the Minnesota Department of Health on the number of unique qualifying medical cannabis patients to estimate the number of registered South Carolina cardholders by accounting for differences in

population and disorder prevalence between the states.<sup>1</sup> Further, based upon research published by the Minnesota Department of Health, this analysis assumes that the average card holder will spend an average annual amount of \$3,800 on medical marijuana.<sup>2</sup> Lastly, this estimate assumes that DHEC will register and issue dispensary certificates to privately owned dispensaries to be operational by FY 2024-25 for legal medical marijuana sales, as states often observe an approximately year-long lag from the date of legalization to fully registered and operational dispensaries. Please see the table below for the estimated number of registered card holders and estimated revenue impact.

<b>Estimated Number of Registered Card Holders and State Revenue Impact</b>		
Fiscal Year	Estimated Number of Registered Card Holders	Estimated State Revenue (6% Sales Tax)
FY 2023-24	N/A	\$0
FY 2024-25	555	\$126,000
FY 2025-26	2,664	\$607,000
FY 2026-27	5,356	\$1,222,000
FY 2027-28	9,605	\$2,190,000
FY 2028-29	12,105	\$2,760,000

This bill is expected to increase revenue by an estimated \$126,000 in FY 2024-25, \$607,000 in FY 2025-26, \$1,222,000 in FY 2026-27, \$2,190,000 in FY 2027-28, and \$2,760,000 in FY 2028-29 from a 6 percent sales tax on medical marijuana purchases. Based on trends in states that have passed similar medical marijuana bills, we anticipate that revenues will continue to grow as additional patients become registered identification card holders. Revenues will be distributed to the General Fund, Education Improvement Act (EIA) Fund, and the Homestead Exemption Act (HEX) Fund accordingly.

<b>Estimated State Revenue Funds from Sales Tax</b>			
Fiscal Year	Estimated General Fund Revenue	Estimated EIA Fund Revenue	Estimated HEX Fund Revenue
FY 2023-24	\$0	\$0	\$0
FY 2024-25	\$84,000	\$21,000	\$21,000
FY 2025-26	\$405,000	\$101,000	\$101,000
FY 2026-27	\$814,000	\$204,000	\$204,000
FY 2027-28	\$1,460,000	\$365,000	\$365,000
FY 2028-29	\$1,840,000	\$460,000	\$460,000

**Department of Health and Environmental Control.** Additionally, this bill authorizes DHEC to establish and collect processing fees for applications submitted by patients, caregivers, and

<sup>1</sup> Minnesota Medical Cannabis Dashboard, Minnesota Department of Health, accessed January 10, 2023.

<sup>2</sup> Report on Medical Cannabis Price Study v 1.2, Minnesota Department of Health 2021. <https://www.health.state.mn.us/people/cannabis/docs/rulemaking/pricereport.pdf>

dispensaries. As these are new fees, and the amount of each fee is to be determined by DHEC, there is no data with which to estimate the amount of revenue increase. The bill does not state that the agency may retain these fees or where these funds will be retained. RFA expects this will be determined at a later date. Therefore, this bill will increase revenue by an undetermined amount in FY 2023-24.

**State Law Enforcement Division.** This bill may increase the number of criminal records searches that SLED is required to perform for registered caregivers and employees, principal officers, agents, and board members of dispensaries. SLED previously indicated that the total cost for a criminal records search is \$51.75, of which \$25 is retained by SLED. The vendor, Identogo, receives \$13.50, and the remainder of the fee, \$13.25, is remitted to the FBI. Pursuant to Section 23-3-115(A), revenue generated by criminal records checks performed by SLED up to an amount of \$4,461,000 must be deposited in the General Fund. Any revenue over that amount is retained by SLED.

The number of registered caregivers and employees, principal officers, agents, and board members of dispensaries that may need a criminal background check is undetermined. However, based upon a three-year historical average, SLED was able to retain an average of \$10,375,000 from background checks for its \$25 portion of the fee. Assuming a similar pattern in future years and since this amount is over the \$4,461,000 amount that is allocated to the General Fund, we anticipate that Other Funds of SLED will increase by an undetermined amount in FY 2023-24 as a result of the potential increase in background checks. There would be no increase to the General Fund for this portion of the bill.

Further, this bill may increase the number of court cases, which may result in an increase in the fines and fees collected in court. Court fines and fees are distributed to the General Fund, Other Funds, and local funds. Therefore, RFA anticipates this bill may result in an undetermined increase to General Fund and Other Funds revenue due to fines and fees collections in court.

### **Local Expenditure**

N/A

### **Local Revenue**

Marijuana and marijuana paraphernalia sold pursuant to this bill is specified to be tangible personal property subject to the provisions of Chapter 36, Title 12 and is also subject to local sales tax. Local sales and use taxes in South Carolina average an additional 1.63 percent. Based upon the analysis outlined in the State Revenue section, this bill would, therefore, increase local sales and use taxes by the following estimated amounts:



Estimated Local Revenue Impact	
Fiscal Year	Estimated Local Revenue (1.63% Local Tax)
FY 2023-24	N/A
FY 2024-25	\$34,000
FY 2025-26	\$165,000
FY 2026-27	\$332,000
FY 2027-28	\$595,000
FY 2028-29	\$750,000

This bill will increase local revenue by an estimated \$34,000 in FY 2024-25, \$165,000 in FY 2025-26, \$332,000 in FY 2026-27, \$595,000 in FY 2027-28, and \$750,000 in FY 2028-29 from local option sales taxes.

Additionally, the bill allows a resident of the State who owns agricultural property that is taxed pursuant to Section 12-43-220(d) to register as a dispensary by complying with the provisions of the bill. Depending on how this portion of the bill is interpreted, it could have an impact on local property taxes if the bill is interpreted to allow a taxpayer to retain the agricultural assessment on property that would otherwise be reclassified as commercial property due to the dispensary. Reclassifying agricultural property as commercial would increase property tax revenue. We have contacted local governments regarding the potential impact of this section and received varying responses about the interpretation, with some counties expecting this section to have no impact on property taxes and other expecting this to allow a taxpayer to retain the agricultural assessment on property that would otherwise be reclassified as commercial. Beaufort, Chesterfield, and Dorchester Counties responded to our request. However, the counties were not able to estimate the potential impact this provision could have on local property taxes. For reference, agricultural property, including both private and corporate, accounts for approximately 0.5 percent of all assessed property value in the state and varies widely by county.

Further, this bill may increase the number of court cases, which may result in an increase in the fines and fees collected in court. Court fines and fees are distributed to the General Fund, Other Funds, and local funds. Therefore, RFA anticipates this bill may result in an undetermined increase to local revenue due to fines and fees collections in court.



Frank A. Rainwater, Executive Director