



SOUTH CAROLINA REVENUE AND FISCAL AFFAIRS OFFICE
STATEMENT OF ESTIMATED FISCAL IMPACT
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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.

Bill Number:	S. 0150	Amended by the Senate on February 9, 2022
Author:	Davis	
Subject:	SC Compassionate Care Act	
Requestor:	House Medical, Military, Public, and Municipal Affairs	
RFA Analyst(s):	Griffith, Gallagher, and Gardner	
Impact Date:	March 11, 2022	

Fiscal Impact Summary

The amended bill establishes the South Carolina Medical Cannabis Program, which creates a seed-to-sale system to provide for the sale of medical cannabis to treat a qualifying patient's debilitating medical condition or to alleviate symptoms.

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 \$5,085,000 to establish the program in FY 2022-23. This amount includes \$2,295,000 in recurring salaries and employer contributions for 34.0 FTEs, \$782,000 in recurring operating expenditures, and \$2,008,000 in non-recurring operating expenditures. Further, DHEC expects a shift to Other Funds expenditures beginning in FY 2023-24 as the agency anticipates that Other Funds from fees and monetary penalties will fund the expected \$3,077,000 in recurring expenditures in the second and subsequent years.

The expenditure impact of this bill on the Department of Labor, Licensing and Regulation (LLR) and the Board of Pharmacy (Board), which is under the administration of LLR, to promulgate regulations relating to the dispensing of cannabis products for therapeutic use and to develop a process and promulgate regulations for issuing a permit to a therapeutic cannabis pharmacy is pending, contingent upon a response from the agency.

This bill creates new misdemeanor and perjury offenses, which may increase caseloads. The bill will have no expenditure impact on Judicial. Judicial will use existing General Funds to manage any additional costs resulting from an increase in caseloads.

The State Law Enforcement Division (SLED) indicates the need to establish two new units with 78.0 FTEs to manage the requirements of the bill. Recurring General Fund expenditures of the agency would increase by \$7,147,000 beginning in FY 2022-23 for salary and fringe for the new FTEs, equipment, training, and various other miscellaneous expenses. Non-recurring General Fund expenses of \$3,821,000 would occur in FY 2022-23 as well for vehicles and other equipment. This results in a total General Fund expenditure increase of \$10,968,000 in FY 2022-23.

The expenditure impact on the Administrative Law Court (ALC) from additional hearings requested by revoked or suspended registry identification cardholders and medical cannabis establishments is undetermined as there are no data available that may be used to estimate the increase in the number of hearings. However, any increase will be at least partially offset by the collection of filing fees.

This bill will have no expenditure impact on the Office of the Attorney General. Any expenses to provide input to the South Carolina Board of Pharmacy relating to the dispensing of cannabis products for therapeutic use can be accomplished within the normal course of agency business.

The expenditure impact of this bill on the Department of Motor Vehicles (DMV) for programming changes to allow the suspension of a qualified patient's privilege to drive for at least six months if the patient refuses to submit to a blood sample test pursuant to Section 56-5-2950 is pending, contingent upon a response from the agency.

This bill establishes the South Carolina Medical Cannabis Program Fund within DHEC, which is funded by monies collected pursuant to Title 44, Chapter 53. This revenue must be used for direct and indirect costs associated with the implementation, administration, and enforcement of this bill. The amount of revenue will be determined by fees set by DHEC pursuant to the requirements of this bill. As such, we are unable to estimate the total amount of Other Funds revenue that will be generated from these fees. However, we anticipate DHEC will set fees pursuant to the requirements of this bill such that Other Funds revenue will cover expenses related to establishing and maintaining the program.

Further, this bill adds a sales tax of 6 percent to all sales of medical cannabis products. The imposition of this tax will increase revenue by an estimated \$165,000 in FY 2023-24, \$793,000 in FY 2024-25, \$1,594,000 in FY 2025-26, \$2,859,000 in FY 2026-27, \$3,603,000 in FY 2027-28, and \$2,270,000 in FY 2028-29 from a 6 percent sales tax on medical marijuana purchases. The act is set to repeal December 31, 2028. The revenue must first be used for the implementation, administration, and enforcement of the bill. Any revenues in excess of the amount needed to cover these costs are to be distributed with specified percentages and uses to the General Fund; the University of South Carolina (USC) College of Pharmacy and School of Medicine, the Medical University of South Carolina (MUSC), or an established pharmaceutical company approved by DHEC; SLED; the Department of Education; and local providers.

The potential increase in revenue to the General Fund due to the remittance of 10 percent of expenditures to the Professional and Occupational Licensing Offices pursuant to Proviso 81.3 of the FY 2021-22 Appropriations Act is pending, contingent upon a response from LLR.

This bill may result in an increase in the number of hearings filed in ALC. Section 1-23-670 allows for filing fees for hearings filed in ALC to be used to defray the cost of the proceedings. Therefore, this bill will result in an undetermined increase of Other Funds revenue due to the increase in filing fees.

Also, this bill creates new offenses and up to a \$10,000 fine upon conviction. Any revenue collected pursuant to these fines will be distributed according to current statutes depending upon the jurisdiction of the trial court. Therefore, this bill will result in an undetermined increase in General Fund, Other Funds, and local revenue due to the increase in fines collected.

Due to the permissive nature of the bill that allows local governments to choose to enact local ordinances governing the time, place, manner, and number of medical cannabis establishments in the locality, the expenditure impact on local governments is undetermined.

Section 44-53-2040(D) specifies that marijuana sold pursuant to this bill would not be exempt from local option sales tax. The imposition of this tax will increase local revenue by an estimated \$2,000 in FY 2023-24, \$11,000 in FY 2024-25, \$23,000 in FY 2025-26, \$41,000 in FY 2026-27, \$52,000 in FY 2027-28, and \$32,000 in FY 2028-29 from local option sales taxes. This act is set to repeal December 31, 2028. This bill also creates new offenses and up to a \$5,000 fine upon conviction and any revenue collected pursuant to these fines will be distributed according to the current statutes depending upon the jurisdiction of the trial court. Therefore, this bill may result in an undetermined increase in local revenue from an increase in fines collected. As such, the total local revenue impact is undetermined.

Explanation of Fiscal Impact

Amended by Senate Medical Affairs on February 9, 2022

State Expenditure

The amended bill establishes the South Carolina Medical Cannabis Program, which creates a seed-to-sale system to provide for the sale of medical cannabis to treat a qualifying patient's debilitating medical condition or to alleviate symptoms. This bill would legalize cannabis for specified medical uses, to include:

- cancer;
- multiple sclerosis;
- a neurological disease or disorder, including epilepsy;
- post-traumatic stress disorder;
- Crohn's disease;
- sickle cell anemia;
- ulcerative colitis;
- cachexia or wasting syndrome;
- autism;
- severe or persistent nausea in a person who is not pregnant that is related to end-of-life care, hospice care, is bedridden, or is homebound because of a condition;
- a chronic medical condition causing severe and persistent muscle spasms;
- a chronic medical condition causing severe and persistent pain; or
- a terminal illness with a life expectancy of less than one year.

The Department of Health and Environmental Control. The amended bill requires DHEC to promulgate regulations to develop a registry identification card application form and to establish the process for issuing the cards no later than one year after the effective date of this legislation.

Cards may be issued to qualifying patients and designated caregivers. DHEC must begin accepting applications for registry identification cards no later than ninety days after the effective date of the promulgated regulations, and the agency must begin accepting applications for licensure of qualified medical cannabis establishments no later than thirty days after the effective date of the promulgated regulations. Further, the agency must either engage a company to develop or create the necessary software for an electronic registry of the qualifying patients and designated caregivers. These identification cards must be printed with tamper-resistant technology. Once the system is implemented, DHEC must issue a registry identification card within twenty-five days of receiving the application from the qualifying patient or designated caregiver.

DHEC must also establish a secure web-based verification system to allow law enforcement personnel and medical cannabis establishments to verify registry identification cards. The verification system must provide specified information on the cardholder. Confidentiality of this data is the responsibility of DHEC. The bill also adds other specific duties for DHEC.

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 \$5,085,000 to establish the program in FY 2022-23. Beginning in FY 2023-24, DHEC indicates that Other Funds from fees and monetary penalties will fund the expected \$3,077,000 in recurring expenditures.

General Fund expenditures are expected to total \$5,085,000 in FY 2022-23. These expenditures include \$2,295,000 in recurring salaries and employer contributions for 34.0 FTEs to implement the provisions of the bill. Also, recurring expenses of \$782,000 are expected beginning in FY 2022-23 and 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 cards - \$120,000
- Computer software subscriptions, equipment, vehicle fuel and insurance, office supplies, consulting services, leased office space, and general overhead - \$452,000

Additionally, DHEC anticipates non-recurring operating expenditures to total \$2,008,000 in the first year of implementation for start-up operations and 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 qualifying patients and designated caregivers - \$450,000
- Registry identification card equipment - \$20,000
- Computer equipment, vehicles, and office furniture - \$488,000

As noted above, DHEC expects a shift from General Fund expenditures to Other Funds expenditures beginning in FY 2023-24. Recurring Other Funds expenditures are expected to total \$3,077,000 in the second and subsequent years. This amount includes \$2,295,000 in salaries and employer contributions for the 34.0 FTEs and \$782,000 in other operating expenses.

Department of Labor, Licensing and Regulation. The Board of Pharmacy (Board), which is under the administration of LLR, is required to promulgate regulations relating to the dispensing of cannabis products for therapeutic use. The Board shall also develop a process and promulgate regulations for issuing a permit to a therapeutic cannabis pharmacy. No later than thirty days after the effective date of the bill, the South Carolina Board of Medical Examiners, which is also under the administration of LLR, shall approve a three-hour continuing medical education course on medical cannabis products. The expenditure impact of the bill on LLR is pending, contingent upon a response from the agency.

Judicial. The amended bill creates new offenses for violating the provisions of the bill. Possession of a cannabis product in an open container in a motor vehicle while on a public highway, except in the trunk, glove compartment, closed console, or luggage compartment is a misdemeanor. Additionally, the vaporization of cannabis while operating a motor vehicle is a misdemeanor, and both of these crimes subject the individual to a fine of not more than \$100, imprisonment of not more than 30 days, or both.

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 or knowingly making a misrepresentation of a medical condition to a physician in order to obtain a registry identification card is considered a misdemeanor. Upon conviction, these actions are punishable by a fine of up to \$1,000 per offense. A pharmacist who knowingly fails to submit medical cannabis monitoring information to the Bureau of Drug Control, or to submit the information required in the verification system, or who knowingly submits incorrect information, is guilty of a misdemeanor, which subjects the convicted individual to a fine of not more than \$2,000, imprisonment of not more than two years, or both.

Additionally, false representation of an applicant's job title or description and the diversion of cannabis to any individual who is not allowed to possess cannabis are felonies, which subject the individual to a fine of not more than \$5,000, imprisonment of not more than five years, or both. The unlawful disclosure or unlawful use of medical cannabis authorization monitoring information is also a felony, for which the convicted person is fined not more than \$10,000, imprisoned for not more than ten years, or both.

As the bill creates new misdemeanors and felonies, there is no data available 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 on Judicial. Any revenue collected pursuant to the fines will be distributed according to current statutes depending upon the jurisdiction of the trial court. Therefore, the bill will result in an undetermined increase in General Fund, Other Funds, and local revenue due to the increase in fines collected.

State Law Enforcement Division. The amended bill directs SLED to consult with DHEC on security, transportation, and storage requirements for medical cannabis establishments. SLED must also check criminal records for qualified patients, designated caregivers, and every person seeking to become a medical cannabis establishment agent. Additionally, the bill allows SLED to conduct random inspections of all medical cannabis establishments.

SLED indicates that the agency intends to establish a new Marijuana Enforcement Unit to manage the provisions of the bill. SLED anticipates that this new unit would be comprised of 56 narcotic agents to provide enforcement, 3 lieutenants and 1 captain to provide oversight, and 4 administrative support staff. The unit would incur recurring costs associated with salaries and fringe for new FTEs and operating expenses for gasoline, cellular telephone service with hotspot capability, mobile and portable 800 radio services, uniform replacement, training, travel, technology licenses, and vehicle maintenance. The unit would also incur non-recurring operating costs for the purchase of vehicles, firearms, duty accessories, computer equipment, and training expenses.

SLED also indicates that the agency intends to establish a new Laboratory Marijuana Analysis Unit to determine the difference between hemp and marijuana. SLED anticipates that this unit would be comprised of 6 drug chemists, 4 forensics technicians, and 1 team leader. The unit would incur recurring costs associated with salaries and fringe for the new FTEs, expenses for cellular telephone service, training, and travel. Non-recurring operating costs for this unit include expenses for the purchase of cellular telephones, computer equipment, and four new gas chromatography mass spectrometers.

Additionally, SLED indicates the need to hire additional support staff to manage the provisions of the bill. The new staff would include 1 attorney to provide specialized guidance and legal support. Further, SLED indicates the need for 1 information technology specialist and 1 fiscal analyst to support the additional agents and lab staff.

If SLED establishes both new units, the agency intends to hire 78.0 FTEs to manage the provisions of the bill. Recurring General Fund expenditures of the agency would increase by \$7,147,000 beginning in FY 2022-23 for salary and fringe for the new FTEs, equipment, training, and various other miscellaneous expenses. Non-recurring General Fund expenses of \$3,821,000 would occur in FY 2022-23 as well for vehicles and other equipment. This results in a total General Fund expenditure increase of \$10,968,000 in FY 2022-23.

Administrative Law Court. The amended bill allows a person whose registry identification card is revoked or suspended to request a hearing with the ALC. A similar provision allows a medical cannabis establishment to request an ALC hearing when the establishment's license is denied, suspended, or revoked. In addition, if DHEC fails to promulgate regulations to implement this bill within two years of the effective date, a qualifying patient may commence an action in the ALC to compel action by DHEC. While ALC currently conducts contested cases from multiple permitting processes through DHEC, there are no data available that may be used to estimate the increase in the number of hearings that will be held. Therefore, the expenditure

impact of this bill on the ALC is undetermined. However, some of this expenditure will be offset by the collection of filing fees.

Office of the Attorney General. The amended bill requires the South Carolina Board of Pharmacy to seek input from relevant stakeholders, including but not limited to, the Office of the Attorney General, relating to the dispensing of cannabis products for therapeutic use. Additionally, the bill requires any denials for Section 8 housing to a cardholder to be reported to the Office of the Attorney General. The Office of the Attorney General indicates that this bill will have no expenditure impact since any expenses can be accomplished within the normal course of agency business.

Department of Motor Vehicles. The amended bill allows the suspension of a qualified patient's privilege to drive for at least six months if the patient refuses to submit to a blood sample test pursuant to Section 56-5-2950. Additionally, the bill makes it unlawful for a driver to vaporize cannabis products while operating a motor vehicle. The expenditure impact of this bill on DMV is pending, contingent upon a response from the agency.

State Revenue

The amended bill establishes the South Carolina Medical Cannabis Program Fund within DHEC, which is funded by monies collected pursuant to Title 44, Chapter 53. This revenue must be used for direct and indirect costs associated with the implementation, administration, and enforcement of this bill. Any revenues in excess of the amount needed to cover these costs are to be distributed as follows:

- 75 percent to the state General Fund;
- 10 percent to local providers operating under Act 301 (1973) for purposes related to alcohol and drug abuse prevention, education, early intervention, and treatment services;
- 5 percent for research conducted by the USC College of Pharmacy and School of Medicine, MUSC, or an established pharmaceutical company located in the state and approved by DHEC to conduct medical cannabis research and development;
- 5 percent to SLED;
- 3 percent for research conducted by the USC College of Pharmacy and School of Medicine or MUSC, or both, for the detection of drivers impaired by drugs; and
- 2 percent to the Department of Education for drug safety education.

This bill allows DHEC to establish application and renewal fees to cover costs related to the establishment and maintenance of the program. The amount of revenue will be determined by fees set by DHEC pursuant to the requirements of this bill. As such, we are unable to estimate the total amount of Other Funds revenue that will be generated from these fees. However, we anticipate DHEC will set fees pursuant to the requirements of this bill, such that Other Funds revenue will cover expenses related to establishing and maintaining the program.

Further, this bill adds a 6 percent sales tax to all sales of medical cannabis products and specifies the manner for collections of the tax and revenue. This bill specifies that cannabis sold pursuant to this bill would not be exempt from state sales and use tax pursuant to Section 12-36-2120(28).

Minnesota enacted the *Minnesota Medical Marijuana Act* in 2014 with many of the same medical restrictions as the *South Carolina Compassionate Care 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 card holders by accounting for differences in population and disorder prevalence between the states.¹ Further, based upon published research, this analysis assumes that the average card holder will spend an average annual amount of \$3,600 on medical marijuana.² Lastly, this estimate assumes that DHEC will issue licenses for cannabis dispensary businesses to be operational by FY 2023-24 for legal medical cannabis sales as states often observe an approximately year-long lag from the date of legalization to fully registered and operational dispensaries.

Table 1: Estimated number of Registered Card Holders and Total Revenue Impact

Fiscal Year	Estimated Number of Registered Card Holders	Estimated Total Revenue
FY 2022-23	N/A	\$0
FY 2023-24	765	\$165,000
FY 2024-25	3,672	\$793,000
FY 2025-26	7,381	\$1,594,000
FY 2026-27	13,236	\$2,859,000
FY 2027-28	16,680	\$3,603,000
FY 2028-29*	18,849	\$2,270,000

*Denotes partial fiscal year collections as this act is set to be repealed on December 31, 2028.

In summary, the total revenue impact of this bill is undetermined. The amount of revenue will be determined by fees set by DHEC pursuant to the requirements of this bill. As such, we are unable to estimate the total amount of Other Funds revenue that will be generated from these fees. However, we anticipate DHEC will set fees pursuant to the requirements of this bill, such that Other Funds revenue will cover expenses related to establishing and maintaining the program.

Further, this bill will increase total revenue by an estimated \$165,000 in FY 2023-24, \$793,000 in FY 2024-25, \$1,594,000 in FY 2025-26, \$2,859,000 in FY 2026-27, \$3,603,000 in FY 2027-28, and \$2,270,000 in FY 2028-29 from a 6 percent sales tax on medical cannabis purchases. The act is set to repeal December 31, 2028. The revenue must first be used for the implementation, administration, and enforcement of the bill. Any revenues in excess of the amount needed to cover these costs are to be distributed with specified percentages and uses to the General Fund; the University of South Carolina (USC) College of Pharmacy and School of Medicine, the Medical University of South Carolina (MUSC), or an established pharmaceutical company approved by DHEC; SLED; the Department of Education; and local providers.

¹ Minnesota Medical Cannabis Dashboard, Minnesota Department of Health, accessed February 22, 2022.

² Rosenthal M, S, Pipitone R, N: Demographics, Perceptions, and Use of Medical Marijuana among Patients in Florida. *Medical Cannabis Cannabinoids* 2021; 4:13-20. doi: 10.1159/000512342

In addition, the Board of Pharmacy falls under the Division of Professional and Occupational Licensing, which is under the administration of LLR. Pursuant to Proviso 81.3 of the FY 2021-22 Appropriations Act, LLR is required to remit annually to the General Fund an amount equal to 10 percent of expenditures. The potential increase in revenue to the General Fund is pending, contingent upon a response from LLR.

Local Expenditure

The amended bill allows local governments to enact ordinances or regulations not in conflict with this bill governing the time, place, manner, and number of medical cannabis establishments in the locality. Further, a local government may establish penalties for violation of an ordinance or regulation in regards to medical cannabis. Due to the permissive nature of the bill that allows local governments to choose to enact local ordinances governing the time, place, manner, and number of medical cannabis establishments in the locality, the expenditure impact on local governments is undetermined.

Local Revenue

The amended bill adds a 6 percent sales tax to all sales of medical cannabis products and specifies the manner for collections of the tax and revenue. Section 44-53-2040(D) specifies that marijuana sold pursuant to this bill would not be exempt from local option sales tax. Local sales and use taxes in South Carolina average an additional 1.43 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:

Table 2: Estimated Local Revenue Impact

Fiscal Year	Estimated Local Revenue
FY 2022-23	\$0
FY 2023-24	\$2,000
FY 2024-25	\$11,000
FY 2025-26	\$23,000
FY 2026-27	\$41,000
FY 2027-28	\$52,000
FY 2028-29*	\$32,000

*Denotes partial fiscal year collections as this act is set to be repealed on December 31, 2028.

This bill also creates new offenses and up to a \$10,000 fine upon conviction. Any revenue collected pursuant to these fines will be distributed according to current statues depending upon the jurisdiction of the trial court. Therefore, this bill may result in an undetermined increase in local revenue from the increase in fines collected.

In summary, this bill will increase local revenue by an estimated \$2,000 in FY 2023-24, \$11,000 in FY 2024-25, \$23,000 in FY 2025-26, \$41,000 in FY 2026-27, \$52,000 in FY 2027-28, and \$32,000 in FY 2028-29 from local option sales taxes. This act is set to repeal December 31, 2028. However, the total increase in local revenue will be determined by the amount of fines that may be collected. As such, the total local revenue impact is undetermined.

Amended by Senate Medical Affairs on March 31, 2021

State Expenditure

This bill establishes the South Carolina Medical Cannabis Program, which creates a seed-to-sale system to provide for the sale of medical cannabis to treat a qualifying patient's debilitating medical condition or to alleviate symptoms.

The Department of Health and Environmental Control. This bill requires DHEC to promulgate regulations to develop a registry identification card application form and to establish the process for issuing the cards no later than one year after the effective date of this legislation. Cards may be issued to qualifying patients and designated caregivers. DHEC must begin accepting applications for registry identification cards no later than ninety days or no later than thirty days dependent upon the bill language after the effective date of the promulgated regulations. RFA anticipates this bill will be updated to reflect a consistent deadline. Further, the agency must either engage a company to develop or create the necessary software for an electronic registry of the qualifying patients and designated caregivers. These identification cards must be printed with tamper-resistant technology. Once the system is implemented, DHEC must issue a registry identification card within twenty-five days of receiving the application from the qualifying patient or designated caregiver.

DHEC must also establish a secure web-based verification system to allow law enforcement personnel and medical cannabis establishments to verify registry identification cards. The verification system must provide specified information on the cardholder. Confidentiality of this data is the responsibility of DHEC. The bill also adds other specific duties for DHEC.

DHEC indicates that this bill will increase expenditures by \$5,034,000 in FY 2022-23. These expenditures include \$2,295,000 in recurring salaries and employer contributions for 34.0 FTEs. Non-recurring other operating expenditures of \$1,989,000 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 seed-to-sale tracking system - \$400,000
- Implementation of the electronic registry of qualifying patients and designated caregivers - \$450,000
- Registry identification card equipment and card stock - \$26,000
- Computer equipment, vehicles, and office furniture - \$463,000

Recurring expenditures in year two will total \$3,045,000 and include \$2,295,000 in salaries and employer contributions for 34.0 FTEs. Recurring other operating expenditures of \$750,000 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 - \$420,000

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 \$5,034,000 to establish the program in FY 2022-23. For FY 2023-24, DHEC indicates that Other Funds from fees and monetary penalties will fund the expected \$3,045,000 in recurring expenditures.

Judicial Department. This bill creates new offenses for violating the provisions of the bill. For cardholders, possessing cannabis in plant form, smoking cannabis, or using a device to facilitate the smoking of cannabis is considered a misdemeanor. Upon conviction, these actions are punishable by a fine up to \$1,000, imprisonment of up to one year, or both, depending upon the offense and the amount of marijuana or hashish.

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 is considered a misdemeanor. Upon conviction, these actions are punishable by a fine of up to \$1,000 per offense. Any revenue collected pursuant to these fines will be distributed according to the current statutes depending upon the jurisdiction of the trial court.

Additionally, the diversion of cannabis to any individual who is not allowed to possess cannabis is a felony, and subjects the individual to a fine of not more than \$5,000, imprisonment of not more than five years, or both.

As the bill creates new misdemeanors and felonies, there is no data available 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, there is no expenditure impact on the Judicial Department. Any revenue collected pursuant to the fines will be distributed according to current statutes depending upon the jurisdiction of the trial court. Therefore, the bill will result in an undetermined increase in General Fund, Other Funds, and local revenue due to the increase in fines collected.

State Law Enforcement Division. This bill directs SLED to consult with DHEC on security, transportation, and storage requirements for medical cannabis establishments. SLED must also check criminal records for qualified patients, designated caregivers, and every person seeking to become a medical cannabis establishment agent. Additionally, the bill allows SLED to conduct random inspections of all medical cannabis establishments.

SLED indicates that the agency intends to establish a new Marijuana Enforcement Unit to manage the provisions of the bill. SLED anticipates that this new unit would be comprised of 56 narcotic agents to provide enforcement, 3 lieutenants and 1 captain to provide oversight, and 4 administrative support staff. The unit would incur recurring costs associated with salaries and fringe for new FTEs and operating expenses for gasoline, cellular telephone service with hotspot capability, mobile and portable 800 radio services, uniform replacement,

training, travel, technology licenses, and vehicle maintenance. The unit would also incur non-recurring operating costs for the purchase of vehicles, firearms, duty accessories, computer equipment, and training expenses.

SLED also indicates that the agency intends to establish a new Laboratory Marijuana Analysis Unit to determine the difference between hemp and marijuana. SLED anticipates that this unit would be comprised of 6 drug chemists, 4 forensics technicians, and 1 team leader. The unit would incur recurring costs associated with salaries and fringe for the new FTEs, expenses for cellular telephone service, training, and travel. Non-recurring operating costs for this unit include expenses for the purchase of cellular telephones, computer equipment, and four new gas chromatography mass spectrometers.

Additionally, SLED indicates the need to hire additional support staff to manage the provisions of the bill. The new staff would include 1 attorney to provide specialized guidance and legal support. Further, SLED indicates the need for 1 information technology specialist and 1 fiscal analyst to support the additional agents and lab staff.

If SLED establishes both new units, the agency intends to hire 78.0 FTEs to manage the provisions of the bill. Recurring General Fund expenditures of the agency would increase by \$7,147,000 beginning in FY 2022-23 for salary and fringe for the new FTEs, equipment, training, and various other miscellaneous expenses. Non-recurring General Fund expenses of \$3,821,000 would occur in FY 2022-23 as well for vehicles and other equipment. This results in a total General Fund expenditure increase of \$10,968,000 in FY 2022-23.

Administrative Law Court. This bill allows a person whose registry identification card is revoked or suspended to request a hearing with the ALC. A similar provision allows a medical cannabis establishment to request an ALC hearing when the establishment's license is denied, suspended, or revoked. In addition, if DHEC fails to promulgate regulations to implement this bill within two years of the effective date, a qualifying patient may commence an action in the ALC to compel action by DHEC. While ALC currently conducts contested cases from multiple permitting processes through DHEC, there is no data available that may be used to estimate the increase in the number of hearings that will be held. Therefore, the expenditure impact of this bill on the ALC is undetermined. However, some of this expenditure will be offset by the collection of filing fees.

State Revenue

This bill establishes the South Carolina Medical Cannabis Program Fund within DHEC, which is funded by monies collected pursuant to Title 44, Chapter 53. This revenue must be used for direct and indirect costs associated with the implementation, administration, and enforcement of this bill. Any revenues in excess of the amount needed to cover these costs are to be distributed as follows:

- 85 percent to the state General Fund,
- 5 percent for research conducted by the University of South Carolina (USC) School of Medicine, the Medical University of South Carolina (MUSC), or both, for medical cannabis research and development,

- 3 percent for research conducted by USC School of Medicine, MUSC, or both, for the detection of drivers impaired by drugs,
- 3 percent to SLED,
- 2 percent to the Department of Education for drug safety education, and
- 2 percent to local providers for purposes related to alcohol and drug abuse prevention, education, early intervention, and treatment services.

This bill requires DHEC to establish application and renewal fees to cover costs related to the establishment and maintenance of the program for:

- Registry identification cards for qualifying patients and designated caregivers provided that the fees must be no greater than the cost of processing and issuing the cards,
- Nonresident cardholders to access medical cannabis from a licensed dispensary,
- Discounts for patient fees based on household income and a waiver of fees for veterans,
- Replacement registry cards,
- Medical cannabis establishments,
- Cultivation centers,
- Processing facilities,
- Dispensaries, and
- Independent testing laboratories.

DHEC anticipates an initial lag in revenue collections, as first year collections may be minimal while the program is established. As such, DHEC expects to rely on General Fund appropriations of \$5,033,742 to establish the program in FY 2022-23. Beginning FY 2023-24, DHEC indicates that Other Funds from fees and monetary penalties will fund the anticipated \$3,044,567 in recurring expenditures. Since DHEC will set these fees by regulation, we are unable to estimate the total amount of Other Funds fee revenue that will be generated. However, we anticipate DHEC will set fees pursuant to the requirements of this bill, such that Other Funds revenue will cover expenses related to establishing and maintaining the program.

Further, the bill adds a 6 percent sales tax to all sales of medical cannabis products and specifies the manner for collections of the tax and revenue. However, Section 4 of this bill amends Section 12-36-2120 to add a sales and use tax exemption for cannabis sold by a dispensary to a cardholder pursuant to Article 20, Chapter 53, Title 44. Currently, medicine sold by prescription is exempt from state sales and use tax pursuant to Section 12-36-2120(28). As such, we expect that the sale of cannabis by a physician-authorized prescription through DHEC regulated dispensaries would already be exempt from sales and use tax on prescribed cannabis products. Further, the new exemption applies specifically to any sales to a cardholder. We expect that all sales will be exempted from tax under these two exemptions. Therefore, we anticipate there will be no sales tax revenue impact from the sale of cannabis products pursuant to this bill.

In summary, the total revenue impact of this bill is undetermined. The amount of revenue will be determined by fees set by DHEC pursuant to the requirements of this bill. As such, we are unable to estimate the total amount of Other Funds revenue that will be generated from these fees. Further, this bill, along with Section 12-36-2120(28), exempts cannabis products sold by a

dispensary to a cardholder pursuant to Article 20, Chapter 53, Title 44 from sales and use tax. Therefore, we anticipate there will be no revenue impact from the sale of cannabis products.

Local Expenditure

This bill allows local governments to enact ordinances or regulations not in conflict with this bill governing the time, place, manner, and number of medical cannabis establishments in the locality. Further, a local government may establish penalties for violation of an ordinance or regulation in regards to medical cannabis. Due to the permissive nature of the bill that allows local governments to choose to enact local ordinances governing the time, place, manner, and number of medical cannabis establishments in the locality, the expenditure impact on local governments is undetermined.

Local Revenue

The bill prohibits a local government from imposing any tax or fee on the sale of medical cannabis or medical cannabis products sold in a licensed dispensary. Because sales of medical cannabis are not being taxed currently, this prohibition will not reduce local government tax or fee revenue.

Also, this bill creates new offenses and up to a \$5,000 fine upon conviction. Any revenue collected pursuant to these fines will be distributed according to the current statues depending upon the jurisdiction of the trial court. Therefore, this bill may result in an undetermined increase in local revenue due to the increase in fines collected.



Frank A. Rainwater, Executive Director