

LEGISLATIVE FISCAL ESTIMATE
ASSEMBLY, No. 3852
STATE OF NEW JERSEY
221st LEGISLATURE

DATED: MAY 8, 2024

SUMMARY

- Synopsis:** “Psilocybin Behavioral Health Access and Services Act”; authorizes production and use of psilocybin to promote health and wellness; decriminalizes, and expunges past offenses involving, psilocybin production, possession, use, and distribution.
- Type of Impact:** Annual revenue and expenditure increases and decreases for the State and local entities.
- Agencies Affected:** Department of Health; the Judiciary; Department of Law and Public Safety; Department of Corrections; State Parole Board; Office of the Public Defender; counties; municipalities.

Office of Legislative Services Estimate

Fiscal Impact	<u>Annual</u>
State Expenditure Impact	Indeterminate
State Revenue Impact	Indeterminate
Local Expenditure Impact	Indeterminate
Local Revenue Impact	Indeterminate

- The Office of Legislative Services (OLS) anticipates that the bill will both raise and lower the annual revenues and expenditures of the State and local government entities by indeterminate amounts. The OLS lacks sufficient information to quantify the fiscal impacts or future trends in psilocybin use and production as there is currently no regulated market in the State for psilocybin use and services. Moreover, the fees and penalties authorized under the bill to regulate psilocybin use and production are to be established by future regulations promulgated by the Department of Health.

BILL DESCRIPTION

This bill, designated the Psilocybin Behavioral Health Access and Services Act, establishes a framework under the oversight of the Department of Health for the regulated production and

use of psilocybin in connection with behavioral health care and preventative behavioral health treatment; decriminalizes the production, dispensing, and use of psilocybin by persons over 21 years of age; and expunges past and pending offenses for conduct involving psilocybin that is authorized under the bill. Under the bill, the governing body of a county or municipality may adopt reasonable regulations on the operation of psilocybin product manufacturers and psilocybin service centers located within that county or municipality. The bill also establishes in the department, the Psilocybin Behavioral Health Access and Services Advisory Board to provide advice and recommendations to the department, upon request or upon the board's own initiative, concerning the implementation of the bill. Psilocybin is a chemical obtained from certain types of fresh or dried mushrooms.

FISCAL ANALYSIS

EXECUTIVE BRANCH

None received.

OFFICE OF LEGISLATIVE SERVICES

The OLS anticipates that the bill will both raise and lower the annual revenues and expenditures of the State and local government entities by indeterminate amounts. The OLS lacks sufficient information to quantify the fiscal impacts or future trends in psilocybin use and production as there is currently no regulated market in the State for psilocybin use and services. Moreover, the fees and penalties authorized under the bill to regulate psilocybin use and production are to be established by future regulation promulgated by the Department of Health upon the adoption of the bill. The numerous fiscal impacts are itemized below.

Annual State revenues will grow because of: 1) application, license, and criminal background check fees to be paid by persons and entities seeking to participate in the regulated production and use of psilocybin; and 2) penalties and fines to be paid for violations of the regulatory provisions established under the bill. The annual revenue gain will be somewhat counterbalanced by an annual State revenue loss arising from the decriminalization of the production, dispensing, and use of psilocybin by persons over 21 years of age, as collections from court filing fees and penalties will decline.

Annual State expenditures will rise as a result of the regulation and oversight of the production and use of psilocybin, the enforcement of the regulations, and the establishment and administration of both a social opportunity program and an equitable access program. The bill will also lower annual State expenditures as fewer psilocybin-related acts will enter the criminal justice system. Further, one-time State expenditure decreases will arise from the dismissal of certain pending psilocybin-related charges and the vacating of certain current convictions for such offenses.

Local entities will experience a revenue decline due to the loss of annual municipal fine and court filing fee revenues, as fewer psilocybin-related disorderly persons and petty disorderly persons offenses will be tried in municipal courts. Consequentially, annual municipal and county government expenditures will shrink as county and municipal prosecutor's offices will prosecute fewer psilocybin-related disorderly persons and petty disorderly persons offenses, municipal courts will try fewer such cases, and fewer defendants will be convicted to county jail terms. Further, one-time municipal and county expenditure decreases will accrue from the dismissal of certain pending psilocybin-related charges and the vacating of certain current convictions for such offenses.

Annual municipal and county government expenditures may grow related to the implementation of optional regulation and oversight, as permitted under the bill, on the operation of psilocybin product manufacturers and psilocybin service centers located within that county or municipality.

For reference, two states, Oregon and Colorado, have adopted laws that legalize and regulate the use of psilocybin. Prior to implementation, the Oregon Secretary of State estimated the state would incur \$7 million over the mandatory two-year development period of the law. Once a program is established, ongoing costs were estimated at \$3.1 million annually, with fees and taxes assessed under the law expected to cover these costs. Fiscal estimates for the Colorado policy indicates that annual State spending would increase by up to \$4.0 million to develop a regulatory framework for the law, while annual revenue collected once the program is implemented would be approximately \$3.0 million. As implementation in Oregon began in January 2023 and the Colorado law is still in development, actual costs are unknown. The OLS notes that these examples do not provide any fiscal impact for decriminalizing, and expunging past offenses involving, psilocybin production, possession, use, and distribution.

Section: Human Services

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This legislative fiscal estimate has been produced by the Office of Legislative Services due to the failure of the Executive Branch to respond to our request for a fiscal note.

This fiscal estimate has been prepared pursuant to P.L.1980, c.67 (C.52:13B-6 et seq.).