



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:	H. 3174	Introduced on January 12, 2021
Author:	Rutherford	
Subject:	Put Patients First Act	
Requestor:	House Medical, Military, Public, and Municipal Affairs	
RFA Analyst(s):	Griffith and Gardner	
Impact Date:	February 26, 2021	

Fiscal Impact Summary

This bill will increase expenditures by \$4,267,807 in FY 2021-22 for the Department of Health and Environmental Control (DHEC) to administer the South Carolina Medical Cannabis Program. These expenditures include \$2,095,285 in recurring salaries and employer contributions for 31 FTEs. Non-recurring other operating expenditures will increase by \$1,536,204 in FY 2021-22. Recurring expenditures beginning in FY 2022-23 will total \$2,731,603 and include \$2,095,285 in salaries and employer contributions for 31 FTEs. Recurring other operating expenditures will total \$636,318 beginning in FY 2022-23.

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 \$4,267,807 to establish the program in FY 2021-22. For FY 2022-23, DHEC indicates that Other Funds from fees and monetary penalties will fund the expected \$2,731,603 in recurring expenditures.

The Judicial 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 General Fund, Other Funds, and Federal Funds of Judicial Department 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 does not have an expenditure impact on the General Fund, Other Funds, or Federal Funds.

The revenue impact of this bill is undetermined. The estimated fee revenue is unknown as the bill requires DHEC to set the amount of the fees by regulation. Additionally, 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 expects that this will be determined at a later date.

Explanation of Fiscal Impact

Introduced on January 12, 2021

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.

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 \$4,267,807 in FY 2021-22. These expenditures include \$2,095,285 in recurring salaries and employer contributions for 31 FTEs. Non-recurring other operating expenditures of \$1,536,204 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
- Computer equipment, vehicles, and office furniture.

Recurring expenditures in year two will total \$2,731,603 and include \$2,095,285 in salaries and employer contributions for 31 FTEs. Recurring other operating expenditures of \$636,318 will include the following:

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

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 \$4,267,807 to establish the program in FY 2021-22. For FY 2022-23, DHEC indicates that Other Funds from fees and monetary penalties will fund the expected \$2,731,603 in recurring expenditures.

Judicial Department. 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 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, there is no expenditure impact on the General Fund, Other Funds, or Federal Funds of the Judicial Department.

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 does not have an expenditure impact on the General Fund, Other Funds, or Federal Funds.

State Revenue

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. RFA expects this will be determined at a later date. Therefore, this bill will increase revenue by an undetermined amount in FY 2021-22.

Local Expenditure & Revenue

N/A



Frank A. Rainwater, Executive Director