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S.B. 9
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Fiscal Note & Local Impact Statement

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Version: As Introduced

Primary Sponsors: Sens. Schuring and S. Huffman

Local Impact Statement Procedure Required: No

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Highlights

- The bill transfers the portions of the Medical Marijuana Control Program (MMCP) currently overseen by the Board of Pharmacy (PRX) to a newly created Division of Marijuana Control within the Department of Commerce. As a result, the Department will incur costs, including hiring new employees, to oversee these new responsibilities. Expenses would be paid from the Medical Marijuana Control Fund (Fund 5SY0).
- As a result of the bill, PRX generally will no longer incur MMCP-related operating costs, except for continuing law that requires a retail dispensary report to the PRX-administered Ohio Automated Rx Reporting System (OARRS) when dispensing medical marijuana. Based on FY 2022 expenditures, it is estimated that the costs of approximately 12 program staff could be saved, totaling \$1.7 million annually.
- Likely annual gain in registration fee revenue credited to Fund 5SY0 for persons enrolling in MMCP as patients and caregivers as a result of the bill expanding the types of medical conditions that are eligible for treatment with medical marijuana.
- Depending on how many additional persons enroll and the amount of medical marijuana purchased, this could generate additional state and local sales tax revenue annually from an increase in the sale of medical marijuana.
- The Department of Administrative Services will incur costs to conduct an equity study of the medical cannabis industry, the medical cannabis market, and the role of minorities and women in these areas.

Detailed Analysis

Overview

The bill creates the Division of Marijuana Control (DMC) and the Medical Marijuana Oversight Commission within the Department of Commerce (COM) for the purpose of overseeing Ohio's Medical Marijuana Control Program (MMCP). Currently, three state agencies are responsible for the operation of MMCP. COM oversees the licensing of cultivators, processors, and testing laboratories. The Board of Pharmacy (PRX) oversees the licensing of retail dispensaries and the registration of patients and caregivers. The State Medical Board certifies physicians to recommend medical marijuana.

The bill transfers the portions of MMCP currently overseen by PRX to DMC. The State Medical Board's responsibilities remain the same under the bill. Specifically, the bill transfers the following responsibilities from PRX to DMC: registering patients and caregivers, approving and licensing retail dispensary licensees, overseeing licensee taxation, investigating violations of the Medical Marijuana Law, entering into reciprocity agreements with other states (changed under the bill to maintain a foreign patient database), and maintaining a toll-free telephone line for responding to inquiries related to MMCP. Retail dispensaries will continue to submit required information regarding medical marijuana dispensed to a patient to PRX under the bill. Once these responsibilities have been transferred to DMC, PRX's role in MMCP is abolished. Consequently, the bill will increase costs for COM but eliminate the majority of costs for PRX. The bill also makes other changes to MMCP that could affect expenditures and revenues for the program as explained in more detail below.

Medical Marijuana Control Program

Expenditures

State Board of Pharmacy

In FY 2022, PRX's MMCP operating expenses totaled \$3.1 million, entirely paid for with money appropriated to Medical Marijuana Control Fund (Fund 5SY0) line item 887613, Medical Marijuana Control Program. Of that amount \$1.7 million was for personal services (payroll and staffing costs) associated with 12 program staff (11 full-time and one part-time), as shown in the table below. As a result of the bill, PRX will no longer incur MMCP-related operating costs, except for continuing law that requires a retail dispensary report to the PRX-administered Ohio Automated Rx Reporting System (OARRS) when dispensing medical marijuana. Presumably, all of the program staff positions noted in the table below will be eliminated with the program transfer.

Staff Position	Number of Staff
Operations	
Deputy Director	1
Program Administrator	3
Administrative Professional	1

Table 1. Pharmacy Board MMCP Staffing	
Staff Position	Number of Staff
Enforcement and Compliance	
Regional Supervisor	1
Agent	4
Inspector	2

Department of Commerce

The bill will increase costs for COM to oversee the transferred MMCP responsibilities that are currently under PRX. COM anticipates it will need to hire the same number of employees to perform ongoing dispensary oversight and patient and caregiver registration. However, the bill contains other provisions which may require additional staff, supplies, and equipment. These provisions include: (1) expanding the types of medical conditions that are eligible for treatment with medical marijuana, (2) requiring DMC to endeavor to achieve a ratio of at least one licensed retail dispensary per 1,000 registered patients up to the first 300,000 registered patients and then adding additional retail dispensaries on an as-needed basis, (3) establishing a new cultivator license category called “stand-alone processors,” and (4) establishing a foreign patient database. Taken together, these provisions may increase the number of registered patients and caregivers, licensed retail dispensaries, and licensed cultivators regulated under DMC, necessitating additional staff and supplies/equipment.

Lastly, COM will incur costs for the Medical Marijuana Oversight Commission established by the bill. The Commission will oversee DMC and consist of 13 appointed members. The bill requires each member receive a per-diem rate of \$150 and reimburses members’ necessary travel expenses. Expenses incurred by COM will be paid under Fund 5SY0 line item 800650, Medical Marijuana Control Program, which is currently used to cover COM’s ongoing MMCP administrative costs. In FY 2022, expenses under this line item amounted to approximately \$3.7 million.

Revenues

Medical Marijuana Control Fund

Any costs incurred by COM for its ongoing MMCP operations as well as those the agency takes on under the bill will most likely be offset from application, registration, and license fees deposited into Fund 5SY0. Fund 5SY0 is funded by the following sources: (1) fees collected by PRX to register patients and caregivers and to issue licenses to medical marijuana retail dispensaries, and (2) fees collected by COM to issue licenses to medical marijuana cultivators, processors, and testing laboratories.

These revenues listed above are likely to increase under the bill. Most notably, the bill adds six medical conditions to the list of medical conditions that qualify for treatment with marijuana. Therefore, more Ohioans will be eligible to register as patients and/or caregivers and subsequently to purchase marijuana from a licensed dispensary. As an example, the bill adds arthritis as a medical condition that can be treated with marijuana. In Michigan, there are over

33,000 qualifying patients with arthritis who are approved to receive medical marijuana for that condition.¹

Tax revenue

By expanding the types of medical conditions that are eligible for treatment with medical marijuana, the bill will probably generate additional state and local sales tax revenue annually from an increase in the sale of medical marijuana. For any given county or transit authority, the additional local sales tax revenue will be a function of the tax rate, the monetary value of the medical marijuana purchases for those new qualifying medical disorders, and the number of licensed dispensaries located within the taxing jurisdiction of a county or transit authority. If the number of patient and caregiver registrants increases, revenue in the form of taxes will also increase commensurately. The state sales tax rate is 5.75%. Permissive county and transit authority sales tax rates vary (up to 1.5% for a county and up to 1% for a transit authority). As of January 22, 2023, total product sales under MMCP were \$1.16 billion.

Current Medical Marijuana Control Program fees and statistics

The table below displays current license and registration fees charged by COM and PRX. It also shows the current number of licensees and registrants as of January 10, 2023.

Table 2. Medical Marijuana Control Program Fees and Statistics		
License/Registration	Fees	Number of Licensees/Registrants
Cultivators – Level I	\$20,000 application fee; \$180,000 initial Certificate of Operation (COO) fee; and \$200,000 COO annual fee	23 provisional licenses (19 have received COOs)
Cultivators – Level II	\$2,000 application fee; \$18,000 initial COO fee; and \$20,000 COO annual fee	14 provisional licenses (12 have received COOs)
Processors	\$10,000 application fee; \$90,000 COO fee; and \$1,000 COO annual fee	46 provisional licenses (44 have received COOs)
Testing Laboratories	\$2,000 application fee; \$18,000 COO fee; and \$100,000 COO annual fee	10 provisional licenses (8 have received COOs)
Retail dispensaries	\$5,000 application fee; \$70,000 COO fee; and \$70,000 biennial license fee	72 provisional licenses (60 have received COOs)
Patients	\$50 annual fee	163,849*
Caregivers	\$25 annual fee	32,633

*This number represents patients with both an active registration and active recommendation from a physician.

¹ [Michigan Marijuana Regulatory Agency Monthly Report](#), December 2022, which may be accessed on the Michigan Marijuana Regulatory Agency's website: michigan.gov/mra.

Other provisions

Department of Administrative Services

The bill will increase costs by an unknown amount for the Department of Administrative Services to conduct an equity study of the medical cannabis industry and the medical cannabis market to determine whether there is a compelling interest to implement remedial measures to assist minorities and women in the medical cannabis industry.

County sheriff investigations

The bill's requirement that COM and the appropriate county sheriff investigate violations of MMCP, as described below, will create work for which both entities should have sufficient staff and appropriated funds to support.

Under current law, if PRX has any reason to believe that any provision of MMCP related to the registering of patients or caregivers, or the licensing of retail dispensaries, or any rules adopted under MMCP, has been violated, it is required to investigate the matter and take appropriate action. Under the bill, this responsibility is transferred to COM, with the added requirement that COM notify the sheriff of the county in which the licensee is located. COM is then required to work with the sheriff to investigate the matter and take necessary actions. The bill specifies that this requirement is not to be construed as authorizing a sheriff to enforce regulatory restrictions relating to medical marijuana license holders.