

FISCAL IMPACT OF PROPOSED LEGISLATION

Measure: HB 3112 - 12

81st Oregon Legislative Assembly – 2021 Regular Session
Legislative Fiscal Office

Legislative Fiscal Office *Only Impacts on Original or Engrossed Versions are Considered Official*

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Measure Description:

Establishes Equity Investment and Accountability Board within office of Governor to provide equity oversight of cannabis industry in this state.

Government Unit(s) Affected:

Oregon State Police (OSP), Oregon Liquor Control Commission (OLCC), Office of the Governor, Board of Parole and Post-Prison Supervision (BPPPS), Department of Corrections (DOC), Oregon Judicial Department (OJD), Department of Justice (DOJ), Oregon Health Authority (OHA), Criminal Justice Commission (CJC), Oregon Department of Agriculture (ODA), Department of Administrative Services (DAS), Public Defense Services Commission (PDSC), District Attorneys and their Deputies (DAs), Cities Counties

Analysis:

This fiscal impact statement is for the purpose of transmitting the measure from the House Committee on Judiciary to the Joint Committee on Ways and Means.

The measure is anticipated to have an impact on the Oregon State Police (OSP), the Oregon Liquor Control Commission (OLCC), the Office of the Governor, the Board of Parole and Post-Prison Supervision (BPPPS), the Department of Corrections (DOC), the Oregon Judicial Department (OJD), the Oregon Health Authority (OHA), the Department of Justice (DOJ), the Criminal Justice Commission (CJC), the Oregon Department of Agriculture (ODA), the Department of Administrative Services (DAS), the Public Defense Services Commission (PDSC), District Attorneys and their Deputies (DAs), Cities, and Counties.

A more complete fiscal analysis on the measure will be prepared as the measure is considered in the Joint Committee on Ways and Means.

The measure:

- Amends statutes relating to the Criminal Fine Account and the Marijuana Account and specifies new fund allocations to the Cannabis Equity Fund.
- Eliminates marijuana tax funding for the Oregon State Police (OSP) Criminal Division.
- Creates the Equity Investment and Accountability Board and the Equity Investment and Accountability Office within the Office of the Governor. The measure establishes the Cannabis Equity Fund and continuously appropriates moneys in Fund to Equity Investment and Accountability Board to allocate to community programs and partners that support landownership, homeownership, and income building through jobs and entrepreneurship for individuals who are American Indian, Alaska Native, Black, Hispanic or Latinx, and that prioritize support for individuals who are American Indian, Alaska Native, Black, Hispanic or Latinx.

Further Analysis Required

- Establishes equity liaisons in the Oregon Health Authority (OHA) and the Oregon Liquor Control Commission (OLCC). Requires equity liaisons to report to Equity Investment and Accountability Board quarterly on specified information.
- Requires OLCC and OHA marijuana regulation directors and staff to complete equity training at least once every six months.
- Directs the Oregon Liquor Control Commission (OLCC) and the Oregon Health Authority (OHA) to adopt rules for issuing and regulating the following licenses: (1) Cannabis Equity License, (2) Cannabis On-Premises Consumption License, (3) Cannabis Delivery License, and (4) Shared Processing License.
- Directs the Public Defense Services Commission (PDSC) to study state laws and compile a list of offenses that include as a predicate offense or necessary element of the offense possession of less than one ounce of marijuana or conduct which exempts from criminal prosecution certain activities involving industrial hemp. The measure requires PDSC to prepare and submit a report to the judiciary committees of the legislature, the Oregon Judicial Department (OJD), and the Equity Investment and Accountability Board by July 1, 2022. PDSC must update the report and submit it annually beginning on July 1, 2023.
- Requires OJD to provide to PDSC, by August 22, 2022, information on all persons who may qualify to have a conviction set aside under ORS 475B.401. The measure directs OJD to make the best efforts to ensure that the information provided is sufficient to identify the person and the specific case resulting in conviction. The section imposes similar requirements on the Oregon State Police (OSP).
- Defines qualifying marijuana offense (QMO) and allows a person who has been arrested for, issued a criminal citation for, or otherwise charged for (but not convicted of) a marijuana offense to apply to the court to set aside the record of arrest, citation or charge. The person may file a motion and apply to the court for the set aside at any time. When filing the motion for set aside, the person must serve a copy on the prosecuting attorney. Within 30 days, the prosecuting attorney may file an objection. If the court receives an objection, the court shall hold a hearing to determine if the record should be set aside. The prosecuting attorney has the burden of establishing, by a preponderance of the evidence, that the record is not for a QMO. If the court determines that the record is for a QMO, the court shall grant the motion and enter the set aside order. Upon entry of the order, the person, for purposes of law shall be deemed not to have been previously convicted of or arrested, cited or charged for the offense, and the court shall issue an order sealing the records. The court shall forward a certified copy of the order to agencies.
- Requires PDSC to determine whether the person is eligible to set aside a conviction, arrest, citation or other charge under ORS 475B.401. For anyone PDSC has determined eligible for relief, PDSC must notify the person within 14 days of receiving the information, that the person is eligible for relief, and must file a motion to set aside the conviction, arrest, citation or charge. If PDSC cannot determine if the person is eligible, the PDSC must make reasonable efforts to notify the person, within 14 days of receiving the information, that the person may qualify for relief. In addition, nothing in the measure prohibits a person from applying on their own for relief. Beginning on July 1, 2022, and every six months thereafter, PDSC must prepare a report for the Equity Investment and Accountability Board detailing the progress made in setting aside convictions, arrests, citations and other charges.
- Stipulates that OJD, the Board of Parole and Post-Prison Supervision (BPPPS) county community corrections programs, courts, district attorneys, and any other entities in the state that maintain records of parole, probation or post-prison supervision violations must review all violation records to determine whether the violation of supervision conditions was based on a QMO, or conduct that constitutes or may be prosecuted as a QMO. The review and expunction of violation records must be completed by December 31, 2024.

The reallocation of funding; new licensing programs; new grant programs; new training and data reporting requirements; as well as activities related to set aside proceedings and violation expungements, including review of records, will have revenue, expenditure, and staffing impact for the affected agencies and county community corrections programs. This impact will be quantified when a more complete fiscal analysis on the measure is prepared when the measure is considered in the Joint Committee on Ways and Means.

Further Analysis Required