

HOUSE BILL REPORT

E2SSB 5796

As Passed House - Amended:

March 4, 2022

Title: An act relating to restructuring cannabis revenue appropriations to provide transparency and accountability and to increase community infrastructure and investment.

Brief Description: Restructuring cannabis revenue appropriations.

Sponsors: Senate Committee on Ways & Means (originally sponsored by Senators Saldaña, Stanford, Keiser, Lias and Wilson, C.).

Brief History:

Committee Activity:

Appropriations: 2/22/22, 2/28/22 [DPA].

Floor Activity:

Passed House: 3/4/22, 78-18.

Brief Summary of Engrossed Second Substitute Bill (As Amended by House)

- Renames the Dedicated Marijuana Account to the Dedicated Cannabis Account.
- Restructures, modifies, and removes certain appropriations to agencies, local governments, and the State General Fund.
- Requires the Joint Legislative Audit and Review Committee (JLARC) to conduct a review of the appropriation and expenditure of cannabis revenues.
- Requires JLARC to submit a report to the appropriate legislative committees by December 1, 2023.

HOUSE COMMITTEE ON APPROPRIATIONS

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not part of the legislation nor does it constitute a statement of legislative intent.

Majority Report: Do pass as amended. Signed by 29 members: Representatives Ormsby, Chair; Bergquist, Vice Chair; Gregerson, Vice Chair; Macri, Vice Chair; Stokesbary, Ranking Minority Member; Chambers, Assistant Ranking Minority Member; Corry, Assistant Ranking Minority Member; MacEwen, Assistant Ranking Minority Member; Chopp, Cody, Dolan, Fitzgibbon, Frame, Hansen, Harris, Hoff, Jacobsen, Johnson, J., Lekanoff, Pollet, Rude, Ryu, Schmick, Senn, Springer, Steele, Stonier, Sullivan and Tharinger.

Minority Report: Without recommendation. Signed by 4 members: Representatives Boehnke, Caldier, Chandler and Dye.

Staff: Peter Clodfelter (786-7127).

Background:

Dedicated Marijuana Account.

The Dedicated Marijuana Account (Marijuana Account) is an appropriated account in the custody of the State Treasurer. All moneys received by the Liquor and Cannabis Board (LCB) from marijuana-related activities must be deposited in the Marijuana Account. These moneys include marijuana excise taxes collected on sales of marijuana and marijuana products, license fees, penalties, and forfeitures from marijuana producers, processors, researchers, and retailers. Moneys from the Marijuana Account are appropriated for expenditures by state agencies and transfers to the Basic Health Plan Trust Account which is used for state funded health care expenditures. Remaining funds are transferred to the State General Fund. A portion of the amounts transferred to the State General Fund are appropriated for distribution for local governments.

Cannabis Revenues and Appropriations.

The February 2022 forecast adopted by the Economic and Revenue Forecast Council estimates \$540 million in state revenues from marijuana-related activities during fiscal year (FY) 2022 and \$537 million in FY 2023. Two sections of current law provide direction to the Legislature in the appropriation of moneys in the dedicated Marijuana Account. Some appropriations are directed to be ongoing and others are not. Following is a summary of the appropriation levels beginning in FY 2022 with items that are ongoing noted.

Initial Appropriations.

The Legislature must initially appropriate the Marijuana Account as follows:

- \$500,000 to the Health Care Authority (HCA) to design and administer the Washington State Healthy Youth Survey (ongoing);
- \$200,000 to the HCA to contract with the Washington State Institute for Public Policy to conduct cost-benefit evaluations and reports regarding the legalization of marijuana (until 2032);

- \$20,000 to the University of Washington (UW) Alcohol and Drug Abuse Institute for education materials regarding health and safety risks posed by marijuana use (ongoing);
- not less than \$5 million to the LCB for administration of the state Uniform Controlled Substances Act (ongoing-current annual appropriation is \$11.6 million);
- \$2.4 million in FY 2022 and FY 2023 for the Washington State Patrol Drug Enforcement Task Force;
- \$270,000 in FY 2022 and \$276,000 in FY 2023 to the Department of Ecology for accreditation of marijuana product testing laboratories;
- \$808,000 in FY 2022 and FY 2023 to the Department of Health (DOH) for administration of the marijuana authorization database;
- \$621,000 in FY 2022 and \$627,000 in FY 2023 to the Washington State Department of Agriculture for marijuana pesticide testing;
- \$1.65 million to the Washington State Department of Commerce (Commerce) to fund the Cannabis Social Equity Technical Assistance Grant Program;
- \$163,000 for FY 2022 and \$159,000 for FY 2023 to the Commerce to establish the cannabis social equity roster of mentors.

Secondary Appropriations.

After appropriation of the amounts above, the Legislature must appropriate the remaining amounts in the Marijuana Account as follows:

- up to 15 percent, but not less than \$25.5 million, subject to additional limitations, to the HCA for administration of programs and practices aimed at prevention or reduction of substance use among middle and high school-age students (ongoing);
- up to 10 percent, but not less than \$9.75 million to the DOH for administration of a marijuana education and public health program and the Washington Poison Control Center (ongoing);
- up to 0.6 percent to UW and 0.4 percent to Washington State University for marijuana research (ongoing with no minimum amount for the 2021-23 biennium);
- 50 percent to the state Basic Health Plan Trust Account, administered by the HCA (ongoing);
- 5 percent to the HCA for contracts with community health centers to provide certain health services (ongoing); and
- up to 0.3 percent, but not less than \$511,000 to the Washington Office of the Superintendent of Public Instruction to fund grants to Building Bridges programs; (ongoing).

At the end of each fiscal year, the Washington State Treasurer (Treasurer) must transfer the remaining amounts into the State General Fund. If marijuana excise tax collections deposited into the State General Fund from the previous fiscal year exceed \$25 million, then the Legislature must appropriate an amount equal to 30 percent, up to a cap of \$20 million annually, to the Treasurer, for distribution to counties, cities, and towns (local governments) as follows:

- 30 percent to local government jurisdictions in which licensed marijuana retailers are

- physically located—each jurisdiction must receive a proportional share based on total revenues generated and taxes collected in such jurisdiction; and
- 70 percent to local governments on a per capita basis provided the jurisdiction does not prohibit siting of state-licensed marijuana businesses—counties must receive 60 percent based on each county's total proportional population.

Summary of Amended Bill:

The Dedicated Marijuana Account is renamed to the Dedicated Cannabis Account (DCA). Beginning in fiscal year (FY) 2023, the Legislature must annually appropriate money in the DCA as follows:

- \$12.5 million to the Liquor and Cannabis Board for administration of the Uniform Controlled Substances Act (ongoing);
- \$11 million to the Department of Health for administration of a commercial tobacco, vapor product, and cannabis education and public health program and the Washington Poison Control Center (ongoing);
- \$3 million to the Department of Commerce (Commerce) to fund the Cannabis Social Equity Technical Assistance Grant Program (ongoing);
- \$200,000 to the Commerce to fund technical assistance through a roster of mentors pursuant to the Cannabis Social Equity Technical Assistance Grant Program (ongoing);
- \$200,000 to the Health Care Authority (HCA) to contract with the Washington State Institute for Public Policy to conduct cost-benefit evaluations and produce reports regarding the legalization of cannabis (annually until June 30, 2032);
- \$25,000 to the University of Washington (UW) Alcohol and Drug Abuse Institute for education materials regarding health and safety risks posed by cannabis use (ongoing);
- \$300,000 to the UW and \$175,000 to Washington State University for cannabis research (ongoing);
- \$550,000 to the Washington Office of the Superintendent of Public Instruction to fund grants to Building Bridges programs (ongoing);
- \$2.4 million in each of FYs 2022 and 2023 for the Washington State Patrol Drug Enforcement Task Force;
- \$270,000 in FY 2022 and \$290,000 in FY 2023 to the Department of Ecology for accreditation of cannabis product testing laboratories;
- \$800,000 in each of FYs 2022 and 2023 to the Department of Health for administration of the cannabis authorization database; and
- \$621,000 in FY 2022 and \$635,000 in FY 2023 to the Washington State Department of Agriculture for cannabis pesticide testing.

The amounts listed above that are ongoing and continue beyond FY 2023 must be adjusted annually based on the United States Bureau of Labor Statistics' Consumer Price Index for the Seattle area. Any amounts remaining after the distributions above must be distributed as follows:

- 52 percent to the Basic Health Plan Trust Account (ongoing);
- 11 percent to the HCA for administration of the Washington State Healthy Youth Survey, programs and practices aimed at prevention or reduction of substance use among middle and high school–age students, and contracts with community health centers to provide certain health services (ongoing);
- 1.5 percent to local governments where retailers are physically located and each jurisdiction must receive a proportional share based on total revenues generated and taxes collected in such jurisdictions (ongoing);
- 3.5 percent to local governments on a per capita basis provided the jurisdiction does not prohibit siting of state-licensed cannabis businesses—counties must receive 60 percent based on each county's total proportional population (ongoing); and
- 32 percent to the State General Fund (ongoing).

The Joint Legislative Audit and Review Committee shall conduct a review of the appropriation and expenditure of cannabis revenues pursuant to RCW 69.50.540 and report to the appropriate legislative committees by December 1, 2023. The report shall include an examination on the appropriation and expenditure of these funds to evaluate:

- how these funds have been appropriated and expended;
- whether the appropriations and expenditures are consistent with the provisions of RCW 69.50.540; and
- whether information related to the appropriations and expenditures is readily available to the general public.

The report shall include options for increasing the transparency and accountability related to the appropriation and expenditure of cannabis-related revenues.

Appropriation: None.

Fiscal Note: Available.

Effective Date: The bill takes effect 90 days after adjournment of the session in which the bill is passed.

Staff Summary of Public Testimony:

(In support) This bill includes a modest increase in the amount of funding that is anticipated to go to local governments. Under the current formula, cities and counties receive \$20 million per year. The proposal would increase this to \$24.4 million and provides for additional increases as revenues increase.

The Initiative that legalized marijuana promised voters that 10 percent of revenues would go to the Department of Health (DOH) for prevention activities. Two years later, the Legislature changed that to a maximum of 10 percent. The DOH only received 2 percent this year. The proposal increases the amount for the DOH from \$10.7 million to \$11

million but adds more work for the DOH in response to tobacco prevention. Marijuana prevention is grossly underfunded in the community and an appropriation of \$15 to \$20 million for prevention is needed.

This state has invested in a variety of industries to bring revenues into the state with the promise of participation and ownership by diverse communities. It is important to have full transparency of cannabis tax money and how it is distributed while also increasing community infrastructure and investment. It is crucial for these tax monies to be appropriated effectively and efficiently. In addition to prevention, this money should go to communities that have been harmed by inadequate policies and to create investment in Black and Brown communities.

When the state legalized cannabis, it excluded the Black community almost entirely from the production and sale of cannabis, now a multi-billion dollar state market. The cannabis industry saw \$1 billion in state retail sales in 2018; however, of that only 1 percent of the cannabis selling or producing businesses were Black owned. The state has exerted systematic violence and destruction of Black communities through vilifying and criminalizing Black cannabis use. In a 25-year span, the state made a quarter million cannabis possession arrests, an average of 10,000 per year. The police and system were infused with anti-Black racism which saw the Black community arrested at a rate three times more than whites even though cannabis use was lower in the Black community. This bill is a first step toward remedying inequities in the cannabis industry and helping communities rebound from the impact of the war on drugs.

(Opposed) None.

Persons Testifying: Candice Bock, Association of Washington Cities; Linda Thompson, Washington Association for Substance Abuse and Violence Prevention; Jim Buchanan and Philip Petty, Washington State African American Cannabis Association; Julius Caesar Robinson; Terry Jones; Dawn Mason and Isaac Joy, King County Equity Now; and Elmer Dixon.

Persons Signed In To Testify But Not Testifying: None.