

SENATE BILL REPORT

SB 5796

As Reported by Senate Committee On:
Labor, Commerce & Tribal Affairs, January 26, 2022
Ways & Means, February 7, 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: Senators Saldaña, Stanford, Keiser, Lias and Wilson, C..

Brief History:

Committee Activity: Labor, Commerce & Tribal Affairs: 1/19/22, 1/26/22 [DPS-WM, DNP, w/oRec].

Ways & Means: 2/05/22, 2/07/22 [DP2S, DNP, w/oRec].

Brief Summary of Second Substitute Bill

- 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.
- Creates the Community Reinvestment Account and specifies reasons for expenditures.

SENATE COMMITTEE ON LABOR, COMMERCE & TRIBAL AFFAIRS

Majority Report: That Substitute Senate Bill No. 5796 be substituted therefor, and the substitute bill do pass and be referred to Committee on Ways & Means.

Signed by Senators Keiser, Chair; Conway, Vice Chair, Labor; Stanford, Vice Chair, Commerce & Tribal Affairs; Rivers, Robinson and Saldaña.

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.

Minority Report: Do not pass.

Signed by Senators Braun and Schoesler.

Minority Report: That it be referred without recommendation.

Signed by Senator King, Ranking Member.

Staff: Matt Shepard-Koningsor (786-7627)

SENATE COMMITTEE ON WAYS & MEANS

Majority Report: That Second Substitute Senate Bill No. 5796 be substituted therefor, and the second substitute bill do pass.

Signed by Senators Rolfes, Chair; Frockt, Vice Chair, Capital; Robinson, Vice Chair, Operating & Revenue; Billig, Carlyle, Conway, Dhingra, Hasegawa, Hunt, Keiser, Pedersen, Van De Wege and Wellman.

Minority Report: Do not pass.

Signed by Senators Wilson, L., Ranking Member; Brown, Assistant Ranking Member, Operating; Schoesler, Assistant Ranking Member, Capital; Honeyford, Ranking Minority Member, Capital; Braun, Gildon, Mullet, Muzzall, Wagoner and Warnick.

Minority Report: That it be referred without recommendation.

Signed by Senator Rivers.

Staff: Amanda Cecil (786-7460)

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 account are distributed to agencies, local governments, and to the Basic Health Plan Trust Account. At the end of each fiscal year (FY), unappropriated amounts in the Marijuana Account are transferred into the state general fund.

Cannabis Appropriations. According to LCB's 2021 Annual Report, total cannabis income, which includes excise tax, license fees, and penalties, was \$473.9 million in FY20 and \$559.5 million in FY21. The current structure and amounts of cannabis appropriations are as follows:

- the Legislature must annually appropriate:
 - \$125,000 to the Health Care Authority (HCA) to design and administer the Washington State Healthy Youth Survey;
 - until 2032, \$50,000 to HCA to contract with the Washington State Institute for

- Public Policy (WSIPP) to conduct cost-benefit evaluations and produce reports regarding the legalization of marijuana;
- \$5,000 to the University of Washington (UW) alcohol and drug abuse institute for education materials regarding health and safety risks posed by marijuana use;
 - not less than \$1,250,000 to LCB for administration of the state Uniform Controlled Substances Act (UCSA);
 - \$1,323,000 in FY20 to the Health Professions Account for the development and administration of the Washington State Department of Health (DOH) marijuana authorization database;
 - \$2,453,000 in FY20, \$2,423,000 in FYs 21-23 to the Washington State Patrol Drug Enforcement Task Force;
 - \$98,000 in FY19 to the Washington State Department of Ecology (Ecology) for research on accreditation of marijuana product testing laboratories;
 - \$465,000 in FY20, \$464,000 in FY21, \$270,000 in FY22, and \$276,000 in FY23 to Ecology for accreditation of marijuana product testing laboratories;
 - \$189,000 in FY20 to DOH for rule making regarding compassionate care renewals;
 - \$808,000 in FYs 21-23 to DOH for administration of the marijuana authorization database;
 - \$635,000 in FY20, \$635,000 in FY21, \$621,000 in FY 22, \$627,000 in FY23 to the Washington State Department of Agriculture (WSDA) for marijuana pesticide testing;
 - \$1,650,000 in FY22 and \$1,650,000 in FY23 to the Washington State Department of Commerce (Commerce) to fund the cannabis social equity technical assistance grant program; and
 - \$163,000 in FY22 and \$159,000 in FY23 to Commerce to establish the cannabis social equity roster of mentors;
- 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 \$25,536,000, subject to additional limitations, to HCA for administration of programs and practices aimed at prevention or reduction of substance use among middle and high school-age students;
 - up to 10 percent, but not less than \$9,750,000, to DOH for administration of a marijuana education and public health program and the Washington Poison Control Center;
 - up to 0.6 percent to UW and 0.4 percent to Washington State University (WSU) for marijuana research; except for FYs 19-23, the minimum amount appropriated to UW must be \$1,021,000 and \$681,000 to WSU;
 - 50 percent to the state Basic Health Plan Trust Account, administered by HCA;
 - 5 percent to HCA for contracted community centers providing certain health services; and
 - up to 0.3 percent, but not less than \$511,000, to the Washington Office of the

Superintendent of Public Instruction (OSPI) to fund grants to building bridges programs;

- after appropriation of the amounts above, the Washington State Treasurer (Treasurer) must transfer the remaining amounts into the state general fund; and
- if marijuana excise tax collections from the previous FY exceed \$25,000,000, then the Legislature must appropriate an amount equal to 30 percent, but not more than \$15,000,000 in FYs 18-21 or \$20,000,000 in succeeding FYs, of all marijuana excise taxes to the Treasurer for distribution to counties, cities, and towns (local governments) as follows:
 - 30 percent to local governments where 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 marijuana siting—counties must receive 60 percent based on each county's total proportional population.

Summary of Bill (Second Substitute): The Marijuana Account is renamed to the Dedicated Cannabis Account (Cannabis Account).

Cannabis Appropriations. *Modified, New Appropriations.* The Legislature must annually appropriate money in the Cannabis Account as follows:

- \$12,500,000 to LCB for administration of the UCSA;
- \$11,000,000 to DOH for administration of a commercial tobacco, vapor product, and marijuana education and public health program and the Washington Poison Control Center;
- \$3,000,000 to Commerce to fund the cannabis social equity technical assistance grant program and for administration of low interest loans to cannabis social equity application licensees;
- \$200,000 to Commerce to fund any cannabis social equity technical assistance roster of mentors;
- until June 30, 2032, \$250,000 to HCA to contract with WSIPP to conduct cost-benefit evaluations and produce reports regarding the legalization of marijuana;
- \$25,000 to UW alcohol and drug abuse institute for education materials regarding health and safety risks posed by marijuana use;
- \$300,000 to UW and \$175,000 to WSU for marijuana research;
- \$550,000 to OSPI to fund grants to building bridges programs;
- \$2,423,000 for FY22 and \$2,793,000 for FY23 for the Washington State Patrol Drug Enforcement Task Force;
- \$270,000 in FY22 and \$464,000 in FY23 to Ecology for accreditation of marijuana product testing laboratories;
- \$800,000 in FYs 20-23 to DOH for administration of the marijuana authorization database; and
- \$621,000 in FY22 and \$635,000 in FY23 to WSDA for marijuana pesticide testing.

The amounts listed above that continue beyond FY23 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:

- 50 percent to the Basic Health Trust Plan Account;
- 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;
- 3.5 percent to local governments on a per capita basis provided the jurisdiction does not prohibit marijuana siting—counties must receive 60 percent based on each county's total proportional population;
- 10 percent to 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 contracted community centers providing certain health services; and
- 35 percent to the State General Fund, of which of the amount going to the State General Fund in FY23, up to \$125,000,000 must be transferred to the Community Reinvestment Account.

Lapsed Appropriations. Specific FY appropriations that have lapsed are removed.

Community Reinvestment Account. The Community Reinvestment Account (Community Account) is created in the state treasury. Expenditures from the Community Account may be used by Commerce for:

- economic development, which includes addressing wealth disparities to promote asset building such as home ownership and expanding access to financial resources including, but not limited to grants and loans for small businesses and entrepreneurs, financial literacy training, and other small business training and support activities;
- civil and criminal legal assistance to provide post-conviction relief and case assistance, including the removal of criminal records and convictions;
- community-based violence intervention and prevention services;
- after-school programs in the community-based violence intervention and prevention services; and
- reentry services to facilitate successful transitions for persons formerly incarcerated in an adult correctional facility or juvenile residential facility in Washington.

The Department of Commerce must collaborate with "by and for community organizations" as defined by Commerce and the Office of Equity and the Governor's Office of Indian Affairs when distributing funds from the Community Account.

EFFECT OF CHANGES MADE BY WAYS & MEANS COMMITTEE (Second Substitute):

- Restructures distributions in the substitute bill to the following:

- the Legislature must annually appropriate specified amounts, which are adjusted annually based on the Seattle-area consumer price index (CPI), from the Cannabis Account to the Liquor and Cannabis Board, Department of Health, Department of Commerce, and others for specified purposes; and
- of the remaining amounts in the Cannabis Account, the Legislature must appropriate: (1) 50 percent to the Basic Health Trust Plan Account for Medicaid services; (2) 10 percent to the Health Care Authority for the administration of certain reporting and prevention work relative to substance use, and community health services; (3) one and one-half percent to local governments based on proportional, jurisdictional cannabis revenue collections; (4) three and one-half percent to local governments ratably on a per capita basis; and (5) 35 percent to the State General Fund.
- Appropriations expiring in 2022-2023 are reinstated, which are not adjusted annually based on the CPI.
- Provides that, in fiscal year 2023, the State Treasurer must transfer \$125 million from the State General Fund to the Community Reinvestment Account (Community Account).
- Adds the Governor's Office of Indian Affairs to the list of organizations the Department of Commerce must collaborate with in distributing funds from the Community Account.
- Includes after-school programs in the community-based violence intervention and prevention services for which funds from the Community Account may be used.

EFFECT OF CHANGES MADE BY LABOR, COMMERCE & TRIBAL AFFAIRS COMMITTEE (First Substitute):

- Reduces the appropriation to the state Basic Health Plan Trust Account to 57.5 percent from 58 percent.
- Increases the appropriation to DOH to \$12 million from \$10.6 million for the administration of an education and public health program, and the Washington Poison Control Center.
- Adds vapor products to the provisions regarding DOH administration of an education and public health program rather than only including cannabis.
- Includes outreach to priority populations regarding commercial tobacco, vapor product, and cannabis use, prevention, and cessation in the purposes of DOH's program rather than in the Reinvestment Account section.
- Clarifies that the Reinvestment Account appropriation is for specified community reinvestment purposes to avoid confusion with existing social equity grant programs.
- Removes explicit language in the Reinvestment Account section regarding using funds for contributions to the Washington Future Fund Trust Fund.

Appropriation: The bill contains multiple appropriations, please refer to the bill.

Fiscal Note: Available.

Creates Committee/Commission/Task Force that includes Legislative members: No.

Effective Date: Ninety days after adjournment of session in which bill is passed.

Staff Summary of Public Testimony on Original Bill (Labor, Commerce & Tribal Affairs): *The committee recommended a different version of the bill than what was heard.*

PRO: We must change the structure that has been in place since November 2012 to provide needed investments in community. Cannabis revenues have found their way into the general fund and transparency is lacking. Investments in community and local governments are necessary. Snohomish County struggles with being able to provide enough support to the homeless community and address the opioid crisis. We support the bill but are hopeful for additional county funding. More transparency and accountability make this more of a participatory budget matter, which we support.

Persons Testifying (Labor, Commerce & Tribal Affairs): PRO: Senator Rebecca Saldaña, Prime Sponsor; Vicki Christophersen, Washington CannaBusiness Association; Josh Weiss, Snohomish County; Paula Sardinas, WBBA/FMSGs.

Persons Signed In To Testify But Not Testifying (Labor, Commerce & Tribal Affairs): No one.

Staff Summary of Public Testimony on First Substitute (Ways & Means): *The committee recommended a different version of the bill than what was heard.* PRO: This bill brings complete clarity and transparency. Cities and counties appreciate the increased distributions. Snohomish County generates more revenue than it received and more funding is needed to address opioid related deaths. More is needed for cannabis research. The war on drugs effects black and brown communities disproportionately and this bill will allocate funds to those communities that have been harmed.

Persons Testifying (Ways & Means): PRO: Doug Levy, Outcomes By Levy, LLC-Cities of Renton, Lake Stevens, Fife; Jim Makoso, Lucid Labs; Josh Weiss, Snohomish County; Jim Buchanan, Washington State African American Cannabis Association; Philip Petty, WSAACA; Paula Sardinas, WA Build-Back Black Alliance (WBBA).

Persons Signed In To Testify But Not Testifying (Ways & Means): No one.