



Legislative Council Staff

Nonpartisan Services for Colorado's Legislature

Final Fiscal Note

Drafting Number:	LLS 21-0204	Date:	July 14, 2021
Prime Sponsors:	Rep. Valdez A.; Van Winkle Sen. Gonzales	Bill Status:	Signed into Law
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Bill Topic: MARIJUANA LICENSEES ABILITY TO CHANGE DESIGNATION

Summary of Fiscal Impact:

<input checked="" type="checkbox"/> State Revenue	<input type="checkbox"/> TABOR Refund
<input checked="" type="checkbox"/> State Expenditure	<input checked="" type="checkbox"/> Local Government
<input type="checkbox"/> State Transfer	<input type="checkbox"/> Statutory Public Entity

The bill allows medical marijuana cultivation facilities and product manufacturers to receive marijuana from a co-located retail facility and change the marijuana's designation from retail to medical. The bill decreases state and local revenue and increases state workload on an ongoing basis.

Appropriation Summary: No appropriation is required.

Fiscal Note Status: This fiscal note reflects the enacted bill.

Summary of Legislation

The bill allows a medical marijuana cultivation facility to receive retail marijuana from a co-located retail marijuana cultivation facility, and change the marijuana's designation from retail to medical. The bill also applies to a medical marijuana products manufacturer, which may receive retail marijuana that has been extracted and is in concentrated form from a co-located retail marijuana products manufacturer and change the marijuana's designation from retail to medical.

Retail marijuana must obtain passing test results prior to a transfer. The co-located facilities must share at least one controlling beneficial owner, and the designation change must be entered into the seed-to-sale tracking system. Once the change is entered, the marijuana is the product of the medical marijuana cultivation facility or products manufacturer and cannot be treated as retail marijuana or retail marijuana product. The bill specifies that a transfer and change of designation from retail to medical does not result in a right to a refund of any retail marijuana excise tax paid prior to the transfer.

The bill requires that the state licensing authority submit a report to the General Assembly analyzing the feasibility of allowing marijuana's designation to be changed from medical to retail, including between medical and retail cultivation facilities and between medical and retail products manufacturers. The report must be completed by January 3, 2022.

State Revenue

Beginning in FY 2021-22, changing the marijuana designation from retail to medical reduces the taxes that will be paid on it, thus reducing net state marijuana tax revenue. Specifically, the bill results in:

- a reduction in revenue from the 15 percent special sales tax on retail marijuana, which is distributed to the General Fund, Marijuana Tax Cash Fund (MTCF), State Public School Fund, and local governments, and is exempt from TABOR;
- a reduction in revenue from the 15 percent excise tax on retail marijuana transferred between cultivators, which is deposited in the Public School Capital Construction Assistance Fund and is exempt from TABOR; and
- an increase in revenue from the 2.9 percent sales tax on medical marijuana, which is deposited in the MTCF and is subject to TABOR. This additional revenue will offset a portion of the revenue reduction.

The exact amount of the reduction has not been estimated and will depend on how much marijuana is changed from retail to medical, as well as whether licensees have paid the excise tax on retail marijuana prior to changing the designation.

State Expenditures

The bill increase workload for the Department of Revenue to report on the feasibility of changing marijuana's designation from medical to retail, conduct rulemaking, ensure compliance, and respond to questions. The increased workload can be accomplished within existing appropriations.

TABOR refunds. The bill is expected to increase the amount of state revenue required to be refunded to taxpayers by a minimal amount, as revenue from the 2.9 percent sales tax on medical marijuana is subject to TABOR. TABOR refunds are paid from the General Fund. This estimate is based on the June 2021 LCS revenue forecast, which incorporates the revenue impacts of bills passed during the 2021 session. A forecast of state revenue subject to TABOR is not available beyond FY 2022-23.

Local Government

To the extent the bill reduces revenue from the special sales tax on retail marijuana, it will reduce the amount that is distributed to local governments. Of the special sales tax revenue, 10 percent is allocated proportionally to local governments based on where sales occur.

Effective Date

The bill was signed into the law by the Governor on June 23, 2021 and takes effect July 1, 2022, except that the reporting requirement took effect upon signature of the Governor.

State and Local Government Contacts

Counties

Public Health and Environment

Law

Revenue

Municipalities