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Proposition 19

LEGISLATIVE ANALYST'S OFFICE

Presented to:

Senate Committee on Public Safety

Hon. Mark Leno, Chair

Assembly Committee on Public Safety

Hon. Tom Ammiano, Chair





Current Marijuana Laws and Regulations



Federal Law

- Federal laws classify marijuana as an illegal substance and provide criminal penalties for various activities relating to its use. These laws are enforced by federal agencies that may act independently or in cooperation with state and local law enforcement agencies.



State Law and Proposition 215

- Under current state law, the possession, cultivation, or distribution of marijuana generally is illegal. Penalties for marijuana-related activities vary depending on the offense, but may result in a fine, probation, jail, or a prison term.
- Proposition 215, approved by the voters in November 1996, legalized the cultivation and possession of marijuana in California for medical purposes.



Federal Enforcement

- Notwithstanding Proposition 215, the U.S. Supreme Court ruled in 2005 that federal authorities could continue to prosecute California patients and providers engaged in the cultivation and use of marijuana for medical purposes.
- However, the U.S. Department of Justice announced in March 2009 that the current administration would not prosecute marijuana patients and providers whose actions are consistent with state medical marijuana laws.



Major Provisions of Proposition 19



State Legalization of Marijuana Possession and Cultivation for Personal Use

- Persons age 21 or older would be allowed to (1) possess, process, share, and transport up to one ounce of marijuana, and (2) cultivate marijuana on private property in an area up to 25 square feet per private residence or parcel.
- The state and local governments could also authorize the possession and cultivation of larger amounts of marijuana.
- Consumption of marijuana would be permitted only in residences, licensed establishments, or other “non-public places.”
- Individuals could not be punished, fined, or discriminated against for engaging in conduct permitted by the measure. However, employers would retain existing rights to address consumption of marijuana that impairs an employee’s job performance.
- Existing laws that prohibit driving under the influence of drugs and that prohibit possessing marijuana on the grounds of elementary, middle, and high schools would not be changed by the measure.



Authorization of Commercial Marijuana Activities

- Local governments could authorize and regulate commercial marijuana-related activities, such as cultivation, processing, distribution, transportation, and sales. The state could also, on a statewide basis, authorize and regulate these activities.
- Local governments could impose new general, excise, or transfer taxes, as well as benefit assessments and fees, on authorized marijuana-related activities in order to raise revenue or offset any costs associated with marijuana regulation. The state could also impose similar charges.



Fiscal Effects Subject to Significant Uncertainty



State and Local Government Actions

- The measure permits, but does not require, the state and local governments to take certain actions related to the regulation and taxation of marijuana.
- Thus, it is uncertain to what extent these activities would occur. For example, it is unknown how many local governments would choose to license establishments that grow or sell marijuana or impose an excise tax on such sales.



Federal Enforcement

- Although the federal government announced in March 2009 that it would not prosecute medical marijuana patients and providers whose actions are consistent with Proposition 215, it has continued to enforce its prohibitions on non-medical marijuana activities.
- This means that the federal government could prosecute individuals for activities that would be permitted under this measure.
- To the extent that the federal government continued to enforce its prohibitions on marijuana, it would have the effect of impeding the activities permitted by this measure under state law.



Potential Impacts on State and Local Expenditures



Reduction in State and Local Correctional Costs

- The measure could result in savings to the state and local governments by reducing the number of marijuana offenders incarcerated in state prisons and county jails, as well as the number placed under county probation or state parole supervision. These savings could reach several tens of millions of dollars annually.
- The county jail savings would be offset to the extent that jail beds no longer needed for marijuana offenders were used for other criminals who are now being released early because of a lack of jail space.



Reduction in Court and Law Enforcement Costs

- The measure would result in a reduction in state and local costs for enforcement of marijuana-related offenses and the handling of related criminal cases in the court system.
- However, it is likely that the state and local governments would redirect their resources to other law enforcement and court activities.



Other Fiscal Effects on State and Local Programs

- The measure could also have fiscal effects on various other state and local programs.
- For example, the measure could result in an increase in the consumption of marijuana, potentially resulting in an unknown increase in the number of individuals seeking publicly funded substance abuse treatment and other medical services.
- This measure could also have fiscal effects on state- and locally funded drug treatment programs for criminal offenders, such as drug courts.



Potential Impacts on State and Local Revenues



Existing Taxes

- Businesses producing and selling marijuana would be subject to the same taxes as other businesses. For instance, the state and local governments would receive sales tax revenues from the sale of marijuana.
- Similarly, marijuana-related businesses with net income would pay income taxes to the state. To the extent that this business activity pulled in spending from persons in other states, the measure would result in a net increase in taxable economic activity in the state.



New Taxes and Fees on Marijuana

- As described above, local governments are allowed to impose taxes, fees, and assessments on marijuana-related activities. Similarly, the state could impose taxes and fees on these types of activities.
- A portion of any new revenues from these sources would be offset by increased regulatory and enforcement costs related to the licensing and taxation of marijuana-related activities.



Revenues From Commercial Marijuana

- It is unclear how the legalization of some marijuana-related activities would affect its overall level of usage and price, which in turn could affect the level of state or local revenues from these activities. Consequently, the magnitude of additional revenues is difficult to estimate.
- To the extent that a commercial marijuana industry developed in the state, however, we estimate that the state and local governments could eventually collect hundreds of millions of dollars annually in additional revenues.