

October 28, 2009

Fiscal Impact of Legalizing Marijuana

LEGISLATIVE ANALYST'S OFFICE

Presented to:

Assembly Committee on Public Safety

Hon. Tom Ammiano, Chair





Marijuana Laws and Regulations



Federal Law

- The Federal Controlled Substances Abuse Act provides criminal sanctions for various activities relating to marijuana, which are enforced by federal law enforcement agencies that may act independently or in conjunction with state and local law enforcement agencies.



State Law and Proposition 215

- Under current state law, the possession, use, transportation, or cultivation of marijuana is generally 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 medicinal 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 medicinal cultivation and use of marijuana for violations of federal law.
- However, the U.S. Department of Justice announced in March 2009 that it would no longer prosecute marijuana patients and providers whose actions are consistent with state medical marijuana laws.



Proposed Initiatives

- In recent months, several proposed initiative measures have been filed with the Attorney General to legalize certain marijuana activities. The following analysis is based largely on our review of the impact that these measures would have on state and local government finances.



Fiscal Effects Depend on Enforcement of Federal Marijuana Laws

- Although the federal government recently announced that it would no longer prosecute medical marijuana patients and providers whose actions are consistent with Proposition 215, it has continued to enforce its prohibitions on nonmedical marijuana activities.
- To the extent that the federal government continued to enforce existing federal marijuana laws, it would generally impede the use, transportation, cultivation, or sale of marijuana in California even if the state were to legalize such activities.
- Thus, the expenditures or revenues from legalizing marijuana would be subject to significant uncertainty.



State and Local Criminal Justice Expenditures

- Reduction in Correctional Costs.*** Legalizing marijuana would reduce the number of offenders under state and county correctional supervision, potentially saving several tens of millions of dollars annually. However, savings to county jails could 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.

- Redirection of Court and Law Enforcement Resources.*** Legalizing marijuana could result in a major 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 some or all of such resources would be redirected to other law enforcement and court activities, reducing or perhaps eliminating the savings that could otherwise be realized.

- Reduction in Fine Revenues.*** The legalization of marijuana could also reduce state and local revenues from the collection of fines established in current law for marijuana criminal offenders.



State and Local Health Program Expenditures

- Potential Effects on Substance Abuse Program Costs.*** Legalizing marijuana 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 services. It could also have fiscal effects on state- and locally-funded drug treatment programs for criminal offenders, such as drug courts. For example, it might reduce spending on mandatory treatment for some criminal offenders, or result in the redirection of these funds for other offenders.

- Potential Reduction in Medical Marijuana Program.*** The legalization of marijuana could potentially reduce both the costs and offsetting revenues of the state's Medical Marijuana Program. That is because some individuals would likely no longer participate in the program to obtain marijuana.



Potential New Revenues

- State and local governments could potentially realize new excise tax revenues if they choose to adopt such a tax. Based on limited data available, it appears that an excise tax of \$50 per ounce on commercially produced marijuana could potentially generate additional state or local revenues of a few hundred millions of dollars annually.

- State and local governments could also realize additional revenues from sales taxes generated by the sale of marijuana. The state could also realize additional income tax revenues from the production and sale of marijuana.

- The actual amount of tax revenue that could be generated would depend considerably on (1) the extent to which the federal government enforces its laws against marijuana in California, (2) the rate of a potential excise tax, and (3) how much marijuana is currently consumed and how marijuana legalization would change the consumption and sales price of marijuana.