

**LEGISLATIVE BUDGET BOARD**  
**Austin, Texas**

**FISCAL NOTE, 84TH LEGISLATIVE REGULAR SESSION**

**May 11, 2015**

**TO:** Honorable Abel Herrero, Chair, House Committee on Criminal Jurisprudence

**FROM:** Ursula Parks, Director, Legislative Budget Board

**IN RE: HB2165** by Simpson (relating to repealing marihuana offenses; prohibiting the sale or distribution of marihuana to a minor; creating criminal offenses.), **Committee Report 1st House, Substituted**

**Estimated Two-year Net Impact to General Revenue Related Funds** for HB2165, Committee Report 1st House, Substituted: a positive impact of \$67,172,266 through the biennium ending August 31, 2017.

The Comptroller of Public Accounts indicates revenue collections from forfeited money and property sales related to violations of the Controlled Substances Act would likely be reduced to some degree, as well as criminal fines and court costs for marihuana offenses; however, the aggregate amounts cannot be estimated.

The bill would make no appropriation but could provide the legal basis for an appropriation of funds to implement the provisions of the bill.

**General Revenue-Related Funds, Five-Year Impact:**

<b>Fiscal Year</b>	<b>Probable Net Positive/(Negative) Impact to General Revenue Related Funds</b>
2016	\$20,913,736
2017	\$46,258,530
2018	\$49,968,559
2019	\$51,311,591
2020	\$51,525,942

**All Funds, Five-Year Impact:**

<b>Fiscal Year</b>	<b>Probable Savings/(Cost) from General Revenue Fund 1</b>
2016	\$20,913,736
2017	\$46,258,530
2018	\$49,968,559
2019	\$51,311,591
2020	\$51,525,942

## **Fiscal Analysis**

The bill would amend the Health and Safety Code to legalize the possession and delivery of marijuana and make conforming changes to various other codes. The bill also creates new offenses related to the sale or distribution of marijuana to minors and makes the Comptroller of Public Accounts responsible for enforcing compliance. The bill takes effect on September 1, 2015 and applies to offenses committed on, before, or after the effective date, except that a final conviction that exists on the effective date is unaffected by the bill.

## **Methodology**

In fiscal year 2014, there were 17,269 people placed under adult community supervision (felony and misdemeanor) and 1,327 people admitted into state correctional institutions for possession or distribution of marijuana. In fiscal year 2014, there were 5,502 people placed on juvenile probation supervision and fewer than ten persons admitted into juvenile state residential facilities for these offenses. Under the bill's provisions all of these individuals would no longer be served in the adult criminal or juvenile justice systems.

Creating new offenses related to the sale or distribution of marijuana would result in an increase in state revenue from court costs associated with convictions for this offense, however the Office of Court Administration does not have data on the number of cases that would be added based on the provisions of the bill, therefore the potential increase in state revenue cannot be determined. This analysis assumes the Comptroller would require \$2,000,000 in General Revenue in each fiscal year to enforce compliance with the provisions of the bill. This amount is based on the Comptroller's costs in prior biennia to provide grants to local law enforcement agencies and for interagency contracts with other state agencies for enforcement and compliance activities related to underage tobacco laws. The Comptroller's underage tobacco program provided approximately 175-200 grants annually to local law enforcement agencies for an average grant of \$5,000-\$6,000 per agency; it is assumed that similar grants would be made to enforce the provisions of this bill.

Savings for the adult correctional agency are estimated based on the state costs per day in state adult correctional institutions (\$54.89), adult parole supervision (\$4.04), and adult community supervision (\$1.63). Savings for the juvenile correctional agency are estimated based on the state costs per day for juvenile state residential facilities (\$437.11), juvenile parole supervision (\$31.93), and juvenile probation supervision (\$5.40). The estimated net savings for fiscal year is \$20,913,736 (\$22,913,736 correctional savings - \$2,000,000 costs associated with enforcing compliance). This analysis assumes the bill's provisions would reach partial implementation in fiscal year 2016 and reach full implementation in fiscal years 2017 and beyond.

The Texas Commission Law Enforcement indicates they do not anticipate a significant fiscal impact. It is assumed the Department of Public Safety can implement the provisions of the bill within existing resources. The Comptroller of Public Accounts indicates there could be additional revenue loss from collections of forfeited money and property sales related to violations of the Controlled Substances Act, but those amounts cannot be estimated.

## **Local Government Impact**

Decriminalization of marijuana offenses would result in reduced revenue generated by courts and juvenile probation departments. The Office of Court Administration (OCA) estimates the loss from court revenue to counties to be \$2,943,742 annually. Additionally, there would be loss of revenue from fines to counties. The maximum fine for Class A misdemeanors is \$4,000; Class B

misdemeanors have a maximum fine of \$2,000. However, courts typically assess fines lower than the maximum. Assuming an average fine of 250 and a 40 percent collection rate, there would be a fine revenue loss of \$4,406,800 to counties annually. According to OCA, the decriminalization of such cases would result in a reduced workload in local criminal courts and some reduction in expenses; however, the fiscal impact cannot be determined at this time.

Sheriff's departments may experience a positive fiscal impact due to a reduction in offenders in county Jails. According to the Texas Commission on Jail Standards, the average cost for an inmate in a county jail is \$60.01 per day. There would also be a positive fiscal impact to local adult community supervisions and correction departments resulting from a reduction in misdemeanor community supervision.

The bill would create Class C misdemeanors. A Class C misdemeanor is punishable by a fine of not more than \$500. Costs associated with enforcement and prosecution could likely be absorbed within existing resources. Revenue gain from fines imposed and collected is not anticipated to have a significant fiscal impact. In addition to the fine, punishment can include up to 180 days of deferred disposition.

The bill may result in a positive fiscal implication for local law enforcement agencies that receive grant funding from the comptroller.

**Source Agencies:** 405 Department of Public Safety, 407 Commission on Law Enforcement, 212 Office of Court Administration, Texas Judicial Council, 304 Comptroller of Public Accounts, 454 Department of Insurance, 529 Health and Human Services Commission, 644 Juvenile Justice Department, 696 Department of Criminal Justice, 697 Board of Pardons and Paroles, 701 Central Education Agency

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