

HF600 - 4E - Legalize Cannabis

Chief Author: **Ryan Winkler**
 Committee: **Agriculture Finance and Policy**
 Date Completed: **4/15/2021 9:31:02 AM**
 Agency: **Administrative Hearings**

State Fiscal Impact	Yes	No
Expenditures	X	
Fee/Departmental Earnings	X	
Tax Revenue		X
Information Technology		X
Local Fiscal Impact		X

This table shows direct impact to state government only. Local government impact, if any, is discussed in the narrative. Reductions shown in the parentheses.

State Cost (Savings)	Biennium			Biennium		
	Dollars in Thousands	FY2021	FY2022	FY2023	FY2024	FY2025
Administrative Hearings	-	-	-	-	-	-
Total	-	-	-	-	-	-
Biennial Total			-			-

Full Time Equivalent Positions (FTE)	Biennium			Biennium	
	FY2021	FY2022	FY2023	FY2024	FY2025
Administrative Hearings	-	-	-	-	-
Total	-	-	-	-	-

LBO Analyst's Comment

I have reviewed this fiscal note for reasonableness of content and consistency with the LBO's Uniform Standards and Procedures.

LBO Signature: Joe Harney **Date:** 4/1/2021 6:52:29 PM
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State Cost (Savings) Calculation Details

This table shows direct impact to state government only. Local government impact, if any, is discussed in the narrative. Reductions are shown in parentheses.

*Transfers In/Out and Absorbed Costs are only displayed when reported.

State Cost (Savings) = 1-2		Biennium			Biennium	
Dollars in Thousands		FY2021	FY2022	FY2023	FY2024	FY2025
Administrative Hearings	-	-	-	-	-	-
Total	-	-	-	-	-	-
Biennial Total			-			-
1 - Expenditures, Absorbed Costs*, Transfers Out*						
Administrative Hearings	-	11	278	184	151	
Total	-	11	278	184	151	
Biennial Total			289			335
2 - Revenues, Transfers In*						
Administrative Hearings	-	11	278	184	151	
Total	-	11	278	184	151	
Biennial Total			289			335

Bill Description

HF600-3E is legislation intended to be codified as new chapter 342 to establish the Cannabis Management Board (Board) and advisory councils to oversee regulation of adult-use cannabis and cannabis products. It allows the Board oversight to suspend or revoke a cannabis business’s license.

The legislation also authorizes the Board, the Department of Agriculture (MDA), and the Department of Health (MDH) to conduct rulemaking to implement the provisions of:

- 342.02, Art. 1, Sec. 2, Cannabis Management Board (Board)
- 342.60, Art. 1, Sec. 51, Subd. 3 Standards Established by Commissioner of Health (MDH)
- 342.50-.59, Art. 1, Sec. 42, Subd. 8, Rulemaking (Board)
- 28A.30, Art. 3, Sec. 1, Subd. 5, Rulemaking Authorized (MDA)
- Art. 3, Sec. 3, Rulemaking; Department of Agriculture (MDA)

Assumptions

Based on similar referrals from other state agencies, the Office of Administrative Hearings (OAH) estimates the Board will refer 36 appeals to OAH under Art. 1, under Sec. 16, License Suspension or Revocation; Hearing. Of the 36 appeals OAH estimates that 4 appeals will result in hearings per year. OAH assumes that each of the 4 hearings will require an estimated 88 hours of administrative law judge (ALJ) time at the currently approved billable rate of \$215 per hour (see Minn. Stat. § 16A.126, subd. 1 (2020)). The remaining 32 matters appealed to OAH, but that are resolved before hearing average 11 hours of ALJ time.

Based on rulemakings in programs among other state agencies which are similar in size and scope, OAH assumes a program of this size will require a medium expedited rulemaking at \$133,376 in FY2022 to implement the requirements of Art. 1, Sec. 2, establishing the Board. Based on past practices, OAH assumes that a medium rulemaking under chapter 14 will require an estimated 50 hours of ALJ time for activity related to rulemaking procedures. Of the estimated rulemaking amount of \$133,376, \$10,750 is for the estimated 50 hours of ALJ time for a medium-size expedited rulemaking.

Based on rulemakings in programs among other state agencies which are similar in size and scope, OAH assumes a program of this size will require a medium expedited rulemaking at \$133,376 in FY2023 to implement the requirements of Art. 1, Sec. 51, establishing standards for allowable contaminants in cannabis and cannabis products. Based on past practices, OAH assumes that a medium rulemaking under chapter 14 will require an estimated 50 hours of ALJ time for activity related to rulemaking procedures. Of the estimated rulemaking amount of \$133,376, \$10,750 is for the estimated 50 hours of ALJ time for a medium-size expedited rulemaking.

Based on rulemakings in similar size programs among other state agencies, OAH assumes a large rulemaking will be required to implement the provisions of sections 342.50 to 342.59 at \$310,248 in FY2023. Based on past practices, OAH assumes that a large rulemaking under chapter 14 will require an estimated 135 hours of ALJ time for activity related to rulemaking procedures. Of the estimated rulemaking amount of \$310,248, \$29,025 is for the estimated 135 hours of ALJ time for a large rulemaking.

MDA assumes that each of the four required rulemaking activities identified in Article 3, Food Safety, will require three large rulemakings and one larger than average rulemaking for purposes of this fiscal note. Based on past practices, OAH assumes that a large rulemaking under chapter 14 will require an estimated 135 hours of ALJ time for activity related to rulemaking procedures. OAH has used MDA's estimate to conclude that a larger than average rulemaking is estimated to require 153 hours of ALJ time.

OAH currently bills ALJ time for activities related to rulemaking at the MMB-approved billable rate of \$215 per hour (see Minn. Stat. § 16A.126, subd. 1 (2020)).

Expenditure and/or Revenue Formula

Billed to the Cannabis Management Board for the requirements related to implementing:

342.18, Art. 1, Sec. 16, License Suspension or Revocation; Hearing FY2023 and continuing

Estimated 88 hours of ALJ time at \$215/hr = \$18,920

Estimated 4 appeals referred to OAH go to hearing x \$18,920 = \$75,680

Appeals resolved without hearing Estimated 11 hours of ALJ time at \$215/hr = \$2,365

Estimated 32 appeals referred to OAH and resolved without hearing x \$2,365 = \$75,680

Averaged yearly estimate - \$75,680 + \$75,680 = \$151,360

342.02, Art. 1, Sec. 2, Cannabis Management Board FY2022

Estimated 50 hours of ALJ time @ \$215/hr = \$10,750

342.50-.59, Art. 1, Sec. 42, Subd. 8, Rulemaking FY2023

Estimated 135 hours of ALJ time @ \$215/hr = \$29,025

Cannabis Management Board - TOTAL EXPENDITURES:

FY2022 one-time expedited rulemaking - \$10,750

FY2023 Total Expenditures (license appeal referrals and one-time rulemaking) - \$151,360 + \$29,025 = \$180,385

Subsequent years - Total Expenditures - \$151,360

Billed to the Department of Health for the requirements related to implementing:

342.60, Art. 1, Sec. 51, Subd. 3, Standards established by commissioner of health, expedited rulemaking FY2023

Estimated 50 hours of ALJ time @ \$215/hr = \$10,750

Billed to the Department of Agriculture for the requirements related to implementing:

28A.30, Art. 3, Sec. 1, Edible Cannabis Product Handler Endorsement, Subd. 5, Rulemaking Authorized FY2023

Estimated 135 hours of ALJ time @ \$215/hr = \$29,025

Art. 3, Sec. 3, Rulemaking; Department of Agriculture

(1) Pesticide & Fertilizer Management Division

Estimated 153 hours of ALJ time @ \$215/hr = \$32,895 in FY2024

(2) Plant Protection Division

Estimated 135 hours of ALJ time @ \$215/hr = \$29,025 in FY2023

(3) Food Feed Safety Division

Estimated 135 hours of ALJ time @ \$215/hr = \$29,025 in FY2023

Department of Agriculture TOTAL Expenditures:

FY2023 rulemaking activities - \$87,075

FY2024 rulemaking activities - \$32,895

Long-Term Fiscal Considerations

Hearing costs would continue into future years. Costs associated with the rulemaking activities are a one-time occurrence.

Local Fiscal Impact

References/Sources

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