



**Colorado  
Legislative  
Council  
Staff**

**Bill 7**

**FISCAL NOTE**

**FISCAL IMPACT:**  State  Local  Statutory Public Entity  Conditional  No Fiscal Impact

**Drafting Number:** LLS 17-0134  
**Prime Sponsor(s):**

**Date:** September 19, 2016  
**Bill Status:** Committee on Cost-Benefit  
Analysis of Legalized Marijuana Bill  
Request

**Fiscal Analyst:** Amanda Hayden (303-866-4918)

**BILL TOPIC:** LOCAL AUTHORITY FOR MARIJUANA CONSUMPTION CLUBS

<b>Fiscal Impact Summary</b>	<b>FY 2017-2018</b>	<b>FY 2018-2019</b>
<b>State Revenue</b>	<b><u>\$459,843</u></b>	<b><u>\$527,343</u></b>
Cash Funds*	459,843	527,343
<b>State Expenditures</b>	<b><u>\$341,091</u></b>	<b><u>\$318,895</u></b>
Cash Funds*	305,615	283,419
Centrally Appropriated Costs	35,476	35,476
<b>TABOR Impact</b>	\$456,738	\$524,238
<b>FTE Position Change</b>	2.0 FTE	2.0 FTE
<b>Appropriation Required:</b> \$305,615 - Department of Revenue (FY 2017-18).		
<b>Future Year Impacts:</b> Ongoing increase in state cash fund revenue and expenditures.		

\* A portion of these are pass through moneys to the federal government, treated as reappropriated funds. See the State Revenue and State Appropriations sections.

**Summary of Legislation**

This bill, **requested by the Cost-Benefit Analysis of Legalized Marijuana in Colorado Interim Committee**, creates a private marijuana club license, to be regulated by the Department of Revenue (DOR). According to the rules of licensure, private marijuana clubs may allow people to consume medical or retail marijuana on site but can not sell or provide marijuana or alcohol. Private clubs can not sell food prepared on site, except light snacks. No one under 21 can enter a private marijuana club.

The bill authorizes local governments to allow private marijuana clubs in their jurisdictions. If a local government authorizes a private marijuana club, it must adopt an approval requirement or licensing requirement that complies with the bill. It may also adopt stricter requirements than the state.

Under the bill, public display, consumption, or use of one ounce of marijuana or less in a licensed private marijuana club is not a criminal offense.

**Background**

Currently, state law does not allow for the public consumption of marijuana. As of August 31, 2016, there were 1,580 licensed medical marijuana businesses, 1,269 licensed retail marijuana businesses, and approximately 450 approved retail marijuana stores in Colorado. Several clubs that allow the consumption of marijuana on premises currently operate in Colorado. The bill requires that these clubs begin the process of applying for licensure by June 30, 2017.

**State Revenue**

**The bill increases state cash fund revenue by an estimated \$459,843 in FY 2017-18 and by \$527,343 in FY 2018-19 in the Marijuana Cash Fund within DOR.** The bill increases revenue in three ways: new application and renewal fees for applicants and business owners, fingerprint background check fees, and reimbursement for due diligence investigations of applicants and business owners. Estimates are based on the following assumptions.

**Assumptions.** In FY 2017-18, DOR will receive 45 new private marijuana club license applications. In FY 2018-19, these 45 licensees will renew their licenses while an additional 45 new applicants apply. Each licensee will have an estimated three business associates that qualify as direct beneficial owners (135 individuals). DOR conducts a thorough criminal and financial investigation of any person identified as a direct beneficial owner of a marijuana business, so these 180 individuals submit applications and be subject to background checks as part of the private marijuana club license process.

**Fee Impact on Businesses.** Colorado law requires legislative service agency review of measures which create or increase any fee collected by a state agency. Table 1 below identifies the fee impact of this bill.

<b>Table 1. Fee Impact on Businesses under Bill 7</b>			
<b>FY 2017-18 Type of Fee</b>	<b>Proposed Fee</b>	<b>Number Affected</b>	<b>Total Fee Impact</b>
New marijuana business application fee	\$2,500	45	\$112,500
Direct beneficial owner application fee	1,400	135	189,000
Fingerprint background check fee	46.35	180	8,343
<b>FY 2017-18 TOTAL</b>			<b>\$309,843</b>
<b>FY 2018-19 Type of Fee</b>	<b>Proposed Fee</b>	<b>Number Affected</b>	<b>Total Fee Impact</b>
New marijuana business application fee	\$2,500	45	\$112,500
Renewal application fee	1,500	45	67,500
Direct beneficial owner application fee	1,400	135	189,000
Fingerprint background check fee	46.35	180	8,343
<b>FY 2018-19 TOTAL</b>			<b>\$377,343</b>

**Application fees.** Applicants for a private marijuana club license will pay an estimated \$2,500 for a new license and \$1,500 annually for renewal. Direct beneficial owners will pay an estimated \$1,400 application fee with new applications. The fiscal note assumes 45 new applications per year and 3 direct beneficial owners per application. The actual fees will be set by the Marijuana Enforcement Division (MED) in DOR.

**Fingerprint background check fees.** The MED collects a \$46.35 fee for all applicants and direct beneficial owners for a fingerprint background check, which includes \$39.50 for the fingerprint check and \$6.85 to check each applicant's name for Colorado criminal history. The Colorado Bureau of Investigation (CBI) within the Department of Public Safety (DPS) conducts these background checks and bills DOR monthly. Revenue from fingerprint checks credited to DPS includes \$22.25 to the CBI Identification Unit Cash Fund and \$17.25 in reappropriated funds.

**Investigations.** The MED must investigate all owners of a private marijuana club, which requires a criminal background check and detailed investigation of all ownership agreements. The fiscal note assumes the MED will investigate 45 applicants in both FY 2017-18 and FY 2018-19, as well as an additional 3 direct beneficial owners for each license, for a total of 180 investigations each year. These investigations are expected to increase Marijuana Cash Fund expenditures within the DOR by \$150,000 annually. These costs are billed directly to applicants.

**TABOR Impact**

This bill increases state revenue from fees, which will increase the amount of money required to be refunded under TABOR (approximately \$3,105 of the revenue collected for background checks is passed through to the federal government and is not subject to TABOR). TABOR refunds are paid out of the General Fund. Since the bill increases the TABOR refund obligation without a corresponding change in General Fund revenue, the amount of money available in the General Fund for the budget will decrease by an identical amount.

**State Expenditures**

The bill increases Marijuana Cash Fund expenditures by an estimated \$341,091 and 2.0 FTE in FY 2017-18 and by an estimated \$318,895 and 2.0 FTE in FY 2018-19 and beyond in DOR. These costs are shown in Table 2 and explained below.

<b>Table 2. State Expenditures Under Bill 7</b>		
<b>Cost Components</b>	<b>FY 2017-18</b>	<b>FY 2018-19</b>
Personal Services	\$100,039	\$100,039
FTE	2.0 FTE	2.0 FTE
Operating Expenses and Capital Outlay Costs	17,083	2,887
Travel Costs	22,150	22,150
Fingerprint Background Checks	8,343	8,343
Investigation Costs	150,000	150,000
GenTax Updates	8,000	
Centrally Appropriated Costs*	35,476	35,476
<b>TOTAL</b>	<b>\$341,091</b>	<b>\$318,895</b>

\*Centrally appropriated costs are not included in the bill's appropriation.

**Personal services.** DOR requires \$100,039 and 2.0 FTE in FY 2017-18 and beyond for a criminal investigator and administrative assistant to assist the MED with investigations and regulation of new private marijuana club licenses. The fiscal note assumes a July 1, 2017, start date.

**Operating expenses and capital outlay.** In addition to standard operating and capital outlay costs, DOR requires police equipment for the criminal investigator, who will have peace officer status. These expenditures include one-time costs for a badge, gun, and radio, as well as ongoing costs for ammunition and a cell phone.

**Travel costs.** The criminal investigator will be required to travel to conduct regulatory and criminal investigations. These costs include vehicle lease payments of \$16,950 and mileage reimbursement of \$5,200, which assumes annual travel of 10,000 miles at a reimbursement rate of \$0.52 per mile.

**Fingerprint background checks.** As discussed above, DOR will incur costs of approximately \$8,343 per year to run fingerprint and name background checks through the CBI. This estimate assumes 180 background checks per year at a cost of \$46.35 each. DPS bills DOR monthly for background checks.

**Investigation costs.** DOR must conduct criminal and administrative investigations of all new private marijuana club applicants and associated owners. For the 180 new applicants and direct beneficial owners per year, investigation costs are estimated at \$150,000. Applicants are billed directly for these expenses.

**GenTax updates.** The Colorado Integrated Tax Architecture within DOR's GenTax computer platform requires approximately 40 hours of programming updates at a cost of \$200 per hour to add the new license type to the system. This represents a one-time cost of \$8,000 in FY 2017-18.

**Centrally appropriated costs.** Pursuant to a Joint Budget Committee policy, certain costs associated with this bill are addressed through the annual budget process and centrally appropriated in the Long Bill or supplemental appropriations bills, rather than in this bill. The centrally appropriated costs subject to this policy are estimated in the fiscal note for informational purposes and summarized in Table 3.

<b>Table 3. Centrally Appropriated Costs Under Bill 7</b>		
<b>Cost Components</b>	<b>FY 2017-18</b>	<b>FY 2018-19</b>
Employee Insurance (Health, Life, Dental, and Short-term Disability)	\$15,712	\$15,712
Supplemental Employee Retirement Payments	8,964	8,964
Leased Space	10,800	10,800
<b>TOTAL</b>	<b>\$35,476</b>	<b>\$35,476</b>

### **Local Government Impact**

This bill may increase both revenue and costs for local governments, depending upon whether or not they authorize private marijuana clubs within their jurisdictions and how they structure costs for local licensure as well as regulation and enforcement. Because any change in revenue or expenditures is conditional upon the actions taken by local governments and subject to several variables, the fiscal note has not estimated the impact to local governments.

**Technical Note**

The effective date may make implementation of the bill exceedingly difficult, especially given the June 30, 2017, date by which existing unlicensed marijuana clubs must show they are in the process of applying for licensure. This provision requires that DOR have forms and procedures in place within what could be only weeks of the bill's effective date. The fiscal note has nevertheless assumed a July 1, 2017 start date.

**Effective Date**

The bill takes effect upon signature of the Governor, or upon becoming law without his signature.

**State Appropriations**

In FY 2017-18, this bill requires a cash fund appropriation of \$305,615 and an allocation of 2.0 FTE to the Department of Revenue from the Marijuana Cash Fund, and \$8,343 in reappropriated funds to the CBI Identification Unit Cash Fund in the Department of Public Safety.

**State and Local Government Contacts**

Counties	Municipalities	Public Safety	Revenue
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