

*Information Summary*

# Medical Marijuana Authorization Database Implementation Cost Under 2SSB 5052 (Chap. 70, Laws of 2015)

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## Executive Summary

Passed in 2015, Second Substitute Senate Bill 5052 (2SSB 5052) requires the Department of Health (department) to hire a contractor to develop and maintain a medical marijuana authorization database. The purpose of the database is to provide recognition cards to qualifying patients or their designated providers so they can take advantage of several benefits offered them under the new law. Participation is mandatory for minor patients but voluntary for adults.

Section 21 of the bill requires the department by November 1, 2016, to report to the governor and the fiscal committees of the legislature regarding the cost of implementation and administration of the database. The legislature also asked the department to report initial patient enrollment in the database, and to estimate future enrollment.

In fiscal years (FY) 2016 and 2017, the actual and estimated<sup>1</sup> cost of establishing the database is \$2,225,000. Beginning in FY 2018, the estimated ongoing cost to administer the database is \$616,000 annually. The department incurred related costs in FY 2016 and FY 2017 for overall implementation of 2SSB 5052. Actual and estimated related costs totaled \$614,000 in FY 2016 and FY 2017. Beginning in FY 2018, estimated ongoing costs of related administration of the bill is \$135,000 annually.

The \$1 annual fee that patients and designated providers pay to enroll in the medical marijuana database will recover a small share of ongoing costs. As of November 3, 2016, these fees have generated only \$13,979. Even if all estimated eligible qualifying patients<sup>2</sup> enroll in the database, estimated ongoing revenues would probably not exceed more than \$80,000 annually.

The medical marijuana authorization database became operational on July 1, 2016. We estimated that up to 80,000 patients may be eligible to enroll. But as of the date of this report, enrollment in the database is 13,979 qualifying patients or patient-designated providers. There may be several explanations for this difference: medically endorsed stores have been slower than expected in establishing database access; patient enrollment in the database is voluntary; and some patients may have concerns about how information in the database may be shared. As a result, until more long-term data is available we are unable to estimate future database enrollment.

The legislature directed the department to finance initial costs of implementing 2SSB 5052 from the Health Professions Account in the state treasury with the intent that it be reimbursed from the Dedicated Marijuana Account. Revenue from the Health Professions Account consists of initial and renewal licensing fees from members of the 86 healthcare professions regulated by the Secretary of Health and 17 profession boards and commissions, currently more than 438,000 healthcare providers. Only members of six<sup>3</sup> of these 86 professions may by law issue valid medical marijuana authorizations to qualifying patients.

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<sup>1</sup> Costs are estimated for the 2017 fiscal year.

<sup>2</sup> The department has no way of knowing the total number of patients authorized to use medical marijuana in Washington.

<sup>3</sup> Under RCW 69.51A.010, this includes advanced registered nurse practitioners, allopathic physicians, allopathic physicians' assistants, naturopaths, osteopathic physicians and osteopathic physicians' assistants licensed in Washington State.

**Recommendation.** The department recommends that the Dedicated Marijuana Account be used to restore expenditures from the Health Professions Account for initial and estimated ongoing costs of administering the authorization database and for initial and estimated costs of related overall implementation of 2SSB 5052.

## Introduction and Brief History

The medical use of marijuana was first authorized by Washington State Voter Initiative 692 in 1998. Legalization of recreational marijuana followed in 2012 by Initiative 502, which allowed the purchase and possession of small amounts of marijuana for adults and created a taxed and highly regulated system for the production, processing and retail sale of marijuana. This resulted in the existence of two distinct markets – the unregulated medical market and the regulated recreational market. The legislature reconciled the two markets in 2015 with the passage of 2SSB 5052 and Second Engrossed Second Substitute House Bill 2136. However, the medical use of marijuana remains illegal at the federal level despite a certain level of tolerance conditioned upon full compliance with applicable state laws.

Second Substitute Senate Bill 5052 (2SSB 5052) (also known as the “Cannabis Patient Protection Act”) requires the department to hire a contractor to develop and maintain a medical marijuana authorization database. The purpose of the database is to provide *recognition cards* to qualifying patients and their designated providers<sup>4</sup> so they can take advantage of several benefits offered them under the new law.

Section 21 of the 2SSB 5052 required the department by November 1, 2016, to report to the governor and the fiscal committees of the House of Representatives and the Senate regarding the cost of implementation and administration of the database.

Specifically, the report must:

*Specify amounts from the health professions account used to finance the establishment and administration of the medical marijuana authorization database as well as estimates of the continuing costs associated with operating the medical marijuana database. The report must also provide initial enrollment figures in the medical marijuana authorization database and estimates of expected future enrollment.*

## Authorization Database Implementation and Costs

The department initiated an intensive contracting process to establish parameters and hire a technology firm to create a medical marijuana authorization database. The database must be accessible from licensed marijuana retail stores that have a medical endorsement and may issue or verify recognition cards.

Primary system users are the employees of medically endorsed stores (some are medical marijuana consultants certified by the department) that issue and verify secure recognition cards to patients or their designated providers who hold a valid medical marijuana authorization. The database is accessible by the department. The Liquor and Cannabis Board (LCB) and the state Department of Revenue (DOR) have limited access for audit, regulatory and tax purposes specified in the bill. It is also accessible to healthcare practitioners when providing patient care, and to law enforcement solely to verify a patient’s or designated provider’s recognition card.

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<sup>4</sup> Under RCW 69.51A.010, a designated provider is an adult age 21 or older authorized in writing by a qualified patient to purchase, possess, or grow marijuana on behalf of the patient.  
*Medical Marijuana Program Implementation Costs Under 2SSB 5052*

Total 2015-2017 biennium actual and estimated cost of establishing the database is \$2,225,000. Beginning in FY 2018, the estimated ongoing cost to administer the database is \$616,000 annually. See Figure 1.

**Figure 1. Authorization Database – Actual Costs and Estimated Ongoing Costs**

Cost Category	FY16 Actual Costs	FY17 Estimated Costs	2015-17 Actual + Estimated Total	ANNUAL Estimated Ongoing Costs
Salaries & Benefits	241,000	220,000	461,000	115,000
Operating Costs	22,000	22,000	44,000	11,000
<b>Contracts Required by 2SSB 5052</b>				
<i>Authorization Database</i>	552,000	707,000	1,259,000	451,000
<i>Cybersecurity</i>	29,000	170,000	199,000	-
<i>Quality Assurance</i>	42,000	18,000	60,000	-
<i>Washington State Patrol</i>	-	24,000	24,000	-
Rulemaking	29,000	-	29,000	-
Agency Administrative Charges	74,000	75,000	149,000	39,000
<b>Total</b>	<b>989,000</b>	<b>1,236,000</b>	<b>2,225,000</b>	<b>616,000</b>

## Related Costs

2SSB 5052 required the department to establish related standards for products that may be beneficial for use by patients. To understand the entire cost of implementing the database now and moving forward, this report will also briefly cover these additional costs.

The department developed standards through rule for the testing, safe handling, labeling, and training for owners and employees of marijuana growers, processors and retail stores for marijuana products offered for sale in medically endorsed stores. The department's medical marijuana program also incurred and will continue to incur general costs of administering 2SSB 5052. In the 2015-2017 biennium, actual and estimated costs total \$614,000 in staff time, contracts, rulemaking, public outreach, related administrative costs; and coordination with LCB, DOR, and other agencies. While not directly part of the authorization database, the product standards and general medical marijuana program administration are integral to the department's efforts to implement the legislature's directives in 2SSB 5052. Ongoing costs for general program administration and maintaining the product standards are estimated at \$135,000 annually. See Figure 2.

**Figure 2. Medical Marijuana Program Administration & Product Regulation**

Cost Category	FY16 Actual Expenditures	FY17 Estimated Expenditures	2015-17 Actual + Estimated Total	ANNUAL Estimated Ongoing Costs
Salaries & Benefits	129,000	67,000	196,000	67,000
Operating Costs	21,000	9,000	30,000	9,000
Rulemaking	112,000	-	112,000	-
Attorney General Support	79,000	79,000	158,000	30,000
Agency Administrative Charges	76,000	42,000	118,000	29,000
<b>Total</b>	<b>417,000</b>	<b>197,000</b>	<b>614,000</b>	<b>135,000</b>

### Summary of Costs

As shown in Figure 3, the department’s total 2015-2017 biennium actual and estimated costs for implementation of the entire program under 2SSB 5052 are \$2,839,000. Beginning in FY 2018 the estimated annual ongoing annual costs are \$751,000.

**Figure 3. Summary of Actual and Estimated Costs of Implementing 2SSB 5052**

Cost Category	FY16 Actual Expenditures	FY17 Estimated Expenditures	2015-17 Actual + Estimated Total	ANNUAL Estimated Ongoing Costs
Program Administration & Product Regulation	417,000	197,000	614,000	135,000
Authorization Database	989,000	1,236,000	2,225,000	616,000
<b>Total</b>	<b>1,406,000</b>	<b>1,433,000</b>	<b>2,839,000</b>	<b>751,000</b>

### Projected Revenue vs. Ongoing Costs

The legislature directed the department to finance initial costs of implementing 2SSB 5052 from the Health Professions Account in the state treasury. Revenue from this account consists of initial and renewal licensing fees paid by members of the 86 healthcare professions regulated by the Secretary of Health and 17 profession boards and commissions, currently 438,000 healthcare providers.

The law requires the department to collect a \$1 fee from each qualifying patient or designated provider receiving a medical marijuana recognition card. The fee is collected at the medically endorsed store when a new card is issued or renewed. We estimated that up to 80,000 qualifying patients could be eligible for a recognition card in FY 2017. Yet through November 3, 2016, the number of cards created in the database system 13,979, generating only \$13,797 in actual revenue. Even if all of the estimated qualifying patients enrolled in the database, the maximum potential annual recognition card revenue would be approximately \$80,000.

As a result, estimated future revenue from medical marijuana recognition card fees will not cover the department's ongoing costs of implementing the database and related costs, estimated at \$751,000 annually.

## **Authorization Database Enrollment**

The legislature directed the department to report initial enrollment in the medical marijuana authorization database, and to estimate future enrollment. *Enrollment* is the number of qualifying patients and designated providers issued recognition cards through the database.

The medical marijuana authorization database became operational on July 1, 2016. As of November 3, 2016, enrollment in the database is 13,979 qualifying patients and designated providers. As noted above, at the time of implementation we projected that approximately 80,000 patients may be eligible to enroll.

Not all potentially eligible patients have enrolled. Three reasons may be contributors:

- Medically endorsed stores have been slower than expected in establishing database access – currently 155 stores. Enrollment is expected to increase as more stores come online.
- Patient enrollment in the database is voluntary for those age 18 and over. Qualifying patients with only a medical marijuana authorization form issued by a healthcare provider may enjoy some of the benefits in the bill without enrolling in the database. But these individuals cannot buy products sales tax-free as patients with recognition cards can, and face limits on growing plants and other benefits. Figure 4 compares these benefits.
- During public meetings on department rules establishing the database, several individuals expressed concern about enrolling in the database, fearing access to information by state agencies or law enforcement. Others were concerned that federal agencies may seek information from the database, since marijuana is still considered illegal under federal law.

We do not know the extent that these concerns are impacting patient enrollment in the database. Nonetheless, at this time we are unable to estimate expected future database enrollment.

**Figure 4. Patient Benefits of Database Enrollment vs. Authorization Only**

Benefit	Authorized MMJ Patients or Designated Providers	
	Authorization + Recognition Card	Authorization Only
Purchasing marijuana products	May buy and possess marijuana product three times as much as recreational users.	May only buy and possess the same amount of product as recreational users.
Sales tax exemption	Yes	No
Purchase high THC products <sup>5</sup>	Yes	No
Growing your own plants	Up to six plants. If authorized by a healthcare practitioner, up to 15 plants.	Up to four plants.
May join a noncommercial growing cooperative	Yes. Each person in the cooperative must have a recognition card.	No
Legal protections	May not be arrested for possessing amounts of marijuana allowed for authorized patients.	May have an affirmative defense if prosecuted for possessing more marijuana than allowed.

## Conclusion and Recommendation

As directed by the legislature, the department’s implementation of 2SSB 5052 has been financed by the Health Profession Account in the state treasury, with the intent that it be reimbursed from the Dedicated Marijuana Account. As noted above, revenue from the Health Professions Account consists of initial and renewal licensing fees from members of all 86 healthcare professions regulated by the Secretary of Health and 17 profession boards and commissions. By law, only members of the following six professions licensed in Washington State may issue valid medical marijuana authorizations to qualifying patients:

- Advanced registered nurse practitioners
- Allopathic physicians
- Allopathic physicians’ assistants
- Naturopaths
- Osteopathic physicians
- Osteopathic physicians’ assistants

Actual and projected expenditures from the Health Professions Account to implement the bill during the 2015-2017 biennium are \$2,225,000. Beginning in FY 2018, the department’s estimated ongoing expenses are \$616,000 annually. Related actual and estimated 2015-2017 expenditures from this account for general administration of the Medical Marijuana Program and to maintain product standards are \$614,000, with estimated ongoing expenditures of \$135,000 annually beginning in FY 2018.

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<sup>5</sup> “High THC product” is a marijuana product with at least 10 milligrams but not more than 50 milligrams of THC per serving or application, and meets all additional screening and testing requirements in chapter 246-70 WAC.

Other revenue to help support the database and ongoing implementation of 2SSB 5052 is limited to the \$1 annual fee each qualifying patient or designated provider pays for their authorization database recognition card. These fees are estimated to generate no more than \$80,000 annually.

**Recommendation.** The department recommends that the Dedicated Marijuana Account be used to restore expenditures from the Health Professions Account for initial actual and estimated ongoing costs of administering the authorization database and for initial actual and estimated costs of related overall implementation of 2SSB 5052.