Measure Number: Initiative Petition 2020-34

Subject: Oregon Psilocybin Services Act

Government Unit Affected: State Government, County Government, City Government

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Comments
Initiative Petition 34 (IP 34) directs the Oregon Health Authority to develop a program to allow the manufacture, delivery and administration of psilocybin, which is a chemical obtained from certain types of fresh or dried mushrooms. Upon the effective date of January 1, 2020, IP 34 requires the formation of a sixteen member Oregon Psilocybin Advisory Board, with specified types of representation. The Advisory Council will provide recommendations to the Oregon Health Authority (OHA) as it implements the measure.

The OHA is responsible for the development of a psilocybin treatment program during the two year development period effective January 1, 2021 and ending no later than December 31, 2022. In January 2023, OHA is directed to begin receiving license applications for individuals to manufacture psilocybin products, operate psilocybin service centers, facilitate psilocybin services and test psilocybin products. Additionally, OHA will be required to accredit laboratories for testing psilocybin products, and establish testing, packaging, labeling and dosage requirements of psilocybin products. Prior to receiving a license, an applicant is required to request a land use compatibility statement from the city or county that authorizes the land use. The OHA is not authorized to issue a license if the land use compatibility statement shows the proposed land use as prohibited in the applicable zone.

IP 34 establishes a fifteen percent retail sales tax on the sale of psilocybin products, which is to be collected at the point of sale and remitted by each psilocybin service center operator (the taxpayer). The taxpayer is required to file a return with the Oregon Department of Revenue (DOR) on or before the last day of January, April, July and October of each year for the previous calendar quarter.

In addition to the OHA’s responsibilities, IP 34 requires both the Oregon Department of Agriculture and the Oregon Liquor Control Commission to assist the OHA in the development and administration of the Act. IP 34 also requires, no later than 30 days before the beginning of each calendar quarter, the Oregon Department of Administrative Services (DAS) to prepare an estimate of the revenue that will be received during the remainder of the current biennium and the subsequent three biennia. The DOR and OHA are required to assist DAS in the development of the forecast.
Finally, IP 34 provides authority to cities and counties to adopt local “time, place, and manner regulations” related to licensed psilocybin product manufacturers, psilocybin serve center operations.

Fiscal Impact Summary

Executive Branch Assumptions:

The Oregon Health Authority has estimated the 2019-21 costs to implement this program at $1.5 million General Fund for 12 positions (3.00 FTE). For the 2021-23 biennium, estimated costs for development are $5.3 million General Fund and to administer the program $1.8 million Other Funds for 23 positions (19.75 FTE). The intent, subsequent to the development of the program, is to ensure that the costs of the program are born by fees adopted for the licensees and by the Point of Sale taxes that will be established on psilocybin sales. The source of Other Funds for the OHA expenditures in 2023-25 will be from fees and taxes.

The Oregon Department of Agriculture’s estimates that it would require approximately 175 hours of staff time, costing $11,725 Other Funds for consultation during the development of the program.

The Oregon Liquor Control Commission estimates costs of $288,400 Other Funds in 2021-23 and $153,600 Other Funds in 2023-25. These estimates are based on the requirement to enter into an intergovernmental agreement with the OHA to use the current Oregon Cannabis Tracking System as the system for tracking psilocybin from grow sites to the final sale of any psilocybin products. The funding for OLCC to run this tracking system is expected to be paid through a transfer from the Department of Revenue to the Marijuana Control and Regulation fund. This transfer from the DOR is to occur prior to any other distribution to the Oregon Psilocybin Account.

The Oregon Department of Revenue anticipates no fiscal impact in 2019-21. The DOR plans to begin work on July 1, 2022 on a six month project to be accomplished in two phases to implement a new account within its tax system. Additionally, minor changes to forms, publications, and the department’s website would need to occur. The estimated costs associated with the DOR’s start up responsibilities are $546,491 General Fund for 2 positions (2.00 FTE). The Department of Revenue is authorized to pay for its administrative and enforcement activities from the collection of the tax revenues. DOR is also required to pay OLCC, from those collections, for the administrative expenses for of running the tracking system. The remaining funds after paying the administrative costs for DOR and OLCC are to cover the costs of the program.

Under the Act, OHA will begin issuing licenses January 1, 2023. The DOR’s estimate is based on the assumption of approximately 100 psilocybin businesses applying for and receiving OHA licensure during the 2021-23 biennium, 65 of which are assumed to be licensed psilocybin service centers subject to the point of sale (POS) tax.
Preliminary Discussion

The Oregon Department of Administrative Services estimates a minimal fiscal impact for the revenue forecasting associated with this IP.

Local Government Assumptions:
The impact to cities and counties is indeterminate at this point. While there is likely to be a minimal impact in the amount of work conducted for land use compatibility reviews and any ordinance adoptions, the counties can not anticipate the costs given the unknown amount of businesses to be licensed. The largest expense, which is indeterminate at this point will likely be costs associated with consulting attorneys for the work that cities and counties will be conduct for land use compatibility assessments and ordinance adoptions.

Estimate of Financial Impact

This measure legalizes, regulates and taxes the manufacture, sale, and administration of psilocybin for mental health purposes. State revenue and expenditures will be impacted by passage of this measure. Local government expenditures will be impacted. A fifteen percent point of sales tax based on the retail sales of psilocybin is established as a source of funding for administering the program by the Oregon Health Authority, tax collection and enforcement by the Oregon Department of Revenue, and administration by the Oregon Liquor Control Commission of a psilocybin tracking system.

The measure requires the Oregon Health Authority (OHA) to develop, over a two year period, beginning January 1, 2021, a regulation, licensure, and enforcement program, including fees and fines. The revenue estimate from fees and taxes when fully implemented is indeterminate.

The financial impact during the two-year development period, which runs through December of 2022, is estimated to be $7.0million General Fund to begin activities required under the Act. Once the program is established, ongoing costs are estimated at $3.9 million annually, which will be covered by the fees and tax funds for the administration and enforcement of the Act.

The financial effect on local government for conducting required land use compatibility assessments for licensee applicants and adoption of any pertinent ordinances is indeterminate.