

# Multiple Agency Fiscal Note Summary

|                             |                                    |
|-----------------------------|------------------------------------|
| <b>Bill Number:</b> 5615 SB | <b>Title:</b> Marijuana possession |
|-----------------------------|------------------------------------|

## Estimated Cash Receipts

| Agency Name     | 2009-11   |       | 2011-13   |       | 2013-15   |       |
|-----------------|-----------|-------|-----------|-------|-----------|-------|
|                 | GF- State | Total | GF- State | Total | GF- State | Total |
|                 |           |       |           |       |           |       |
|                 |           |       |           |       |           |       |
| <b>Total \$</b> |           |       |           |       |           |       |

|                     |   |  |  |  |  |  |
|---------------------|---|--|--|--|--|--|
| Local Gov. Courts * | Non-zero but indeterminate cost. Please see discussion. |  |  |  |  |  |
| Local Gov. Other ** |   |  |  |  |  |  |
| Local Gov. Total    |   |  |  |  |  |  |

## Estimated Expenditures

| Agency Name                         | 2009-11  |            |            | 2011-13    |            |            | 2013-15    |            |            |
|-------------------------------------|--|------------|------------|------------|------------|------------|------------|------------|------------|
|                                     | FTEs   | GF-State   | Total      | FTEs       | GF-State   | Total      | FTEs       | GF-State   | Total      |
| Administrative Office of the Courts | Non-zero but indeterminate cost and/or savings. Please see discussion. |            |            |            |            |            |            |            |            |
| Office of Public Defense            | .0   | 0          | 0          | .0         | 0          | 0          | .0         | 0          | 0          |
| Office of Civil Legal Aid           | .0   | 0          | 0          | .0         | 0          | 0          | .0         | 0          | 0          |
| Department of Health                | .0   | 0          | 0          | .0         | 0          | 0          | .0         | 0          | 0          |
| <b>Total</b>                        | <b>0.0</b>   | <b>\$0</b> | <b>\$0</b> | <b>0.0</b> | <b>\$0</b> | <b>\$0</b> | <b>0.0</b> | <b>\$0</b> | <b>\$0</b> |

|                     |   |  |  |  |  |  |
|---------------------|---|--|--|--|--|--|
| Local Gov. Courts * | Non-zero but indeterminate cost. Please see discussion. |  |  |  |  |  |
| Local Gov. Other ** | Non-zero but indeterminate cost. Please see discussion. |  |  |  |  |  |
| Local Gov. Total    |   |  |  |  |  |  |

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|   |                               |                                 |
|---|-------------------------------|---------------------------------|
| <b>Prepared by:</b> Cherie Berthon, OFM | <b>Phone:</b><br>360-902-0659 | <b>Date Published:</b><br>Final |
|---|-------------------------------|---------------------------------|

\* See Office of the Administrator for the Courts judicial fiscal note

\*\* See local government fiscal note

# Judicial Impact Fiscal Note

|                             |                                    |   |
|-----------------------------|------------------------------------|---|
| <b>Bill Number:</b> 5615 SB | <b>Title:</b> Marijuana possession | <b>Agency:</b> 055-Admin Office of the Courts |
|-----------------------------|------------------------------------|---|

## Part I: Estimates

**No Fiscal Impact**

**Estimated Cash Receipts to:**

Non-zero but indeterminate cost. Please see discussion.

**Estimated Expenditures from:**

Non-zero but indeterminate cost. Please see discussion.

*The revenue and expenditure estimates on this page represent the most likely fiscal impact. Responsibility for expenditures may be subject to the provisions of RCW 43.135.060.*

Check applicable boxes and follow corresponding instructions:

- If fiscal impact is greater than \$50,000 per fiscal year in the current biennium or in subsequent biennia, complete entire fiscal note form Parts I-V.
- If fiscal impact is less than \$50,000 per fiscal year in the current biennium or in subsequent biennia, complete this page only (Part I).
- Capital budget impact, complete Part IV.

|                                  |                       |                  |
|----------------------------------|-----------------------|------------------|
| Legislative Contact: Juliana Roe | Phone: (360) 786-7438 | Date: 02/20/2009 |
| Agency Preparation: Brian Backus | Phone: 360-705-5320   | Date: 02/26/2009 |
| Agency Approval: Dirk Marler     | Phone: 360-705-5211   | Date: 02/26/2009 |
| OFM Review: Cherie Berthon       | Phone: 360-902-0659   | Date: 02/27/2009 |

## Part II: Narrative Explanation

### II. A - Brief Description Of What The Measure Does That Has Fiscal Impact on the Courts

Section 1 makes the possession of 40 grams or less of marijuana by anyone 18 or older a civil infraction with a \$100 penalty. Currently possession of 40 grams or less is a misdemeanor for everyone. It would remain a misdemeanor for anyone less than 18.

Section 2 removes the possession of 40 grams or less of marijuana from controlled substance offenses where a person convicted of a second offense may be sentenced to a term or fined an amount twice that otherwise authorized.

Section 3 makes using drug paraphernalia to grow, possess, store, conceal, ingest, inhale, or otherwise introduce into the human body a controlled substance a civil infraction if only marijuana is involved and the violator is 18 or older. Currently this offense is a misdemeanor for everyone. It would remain a misdemeanor for anyone less than 18.

Section 4 directs that "all monetary penalties" for violations of Sections 1 and 3 be deposited in the Criminal Justice Treatment Account.

Section 5 removes the use or possession of marijuana from the list of offenses where a police officer who has probable cause may arrest a suspected offender.

Section 6 repeals RCW 69.50.425 which provides minimum penalties for misdemeanor violations of the Uniform Controlled Substances Act.

### II. B - Cash Receipts Impact

The cash receipts impact is indeterminate. Data are not available that would permit accurate estimates. However, the example below illustrates the potential impact. It should be emphasized that the actual impacts could vary significantly from those described in the examples.

The cash receipts impacts are expected to include reduced fine payments in superior court, increased civil infraction penalty payments in courts of limited jurisdiction, and reduced fine payments for misdemeanor penalties in courts of limited jurisdiction. Data are not available on the current fine amounts imposed or the revenue collected from those fines. Data are also not available that would permit the estimation of cash receipts if the bill were enacted. However, as an example, based on the numbers used in the example in the Expenditures section, assumed differences in the penalty amounts between what is imposed currently and the penalty amount in the bill, and a significantly higher collection rate with a forfeitable monetary penalty, expected revenue increases would be \$1,000,000 to the state (including \$590,000 to the Criminal Justice Treatment Account) and \$10,000 to the cities; the impact on the counties would be a reduction in revenue of approximately \$28,000.

### II. C - Expenditures

The expenditure impact is indeterminate. Data are not available that would permit accurate estimates. However, this note provides examples that illustrate the potential impact based on various assumptions (see attached documents). Based on these assumptions and assumptions in the text of the note, the examples would result statewide in the reduced need for superior court judges by 1.75 FTE, district court judges by 1.8 FTE, and municipal court judges by 1.9 FTE, and in associated reductions in administrative staffing, clerk staffing and operating costs. It should be emphasized that the actual impacts could vary significantly from those described in the examples.

Sections 1 and 3 would eliminate cases involving possession of 40 grams or less of marijuana, or use of drug paraphernalia from superior courts, except where the defendant is under the age of 18. Cases which are now crimes and filed in superior courts would be filed in courts of limited jurisdiction as civil infractions. Cases now filed as crimes in courts of limited jurisdiction for these two offenses would be filed in those courts as civil infractions. This is likely to result in a reduction in the number of hearings in courts of limited jurisdiction because the penalty can be forfeited, no potential jail time is involved, and the monetary penalty for the infraction can be expected to be less than that typically imposed for the crime.

In addition, Section 2 can be expected to reduce the number of hearings for possession of 40 grams or less of marijuana by someone 18 or older. It does not make the same change for use of drug paraphernalia.

Section 4 will require modifications to the Judicial Information System to implement distribution of penalties into the Criminal Justice Treatment Account. The estimated cost is \$8,400 to set up the accounting and update documentation.

Section 5 would eliminate probable cause arrests for use or possession of marijuana and, therefore, can be expected to reduce the total number of cases filed for these offenses.

The removal of minimum penalties for misdemeanor violations of the Uniform Controlled Substances Act in Section 6 could result in a reduction in the number of hearings for cases filed for:

- 69.50.412(1) – using drug paraphernalia where the offense involves a controlled substance other than marijuana.
- 69.50.412(2) – delivering or manufacturing drug paraphernalia.
- 69.50.412(4) – advertising drug paraphernalia.

(However, because the number of cases filed under RCW 69.50.412(2) [delivering or manufacturing drug paraphernalia] and RCW 69.50.412(4) [advertising drug paraphernalia] are minimal, the examples in this note, below, are assumed not to be affected by Section 6's impacts on filings for these crimes.)

#### Impact on the Superior Courts

In 2008, 1,049 cases were filed in superior courts for possession of 40 grams or less of marijuana by someone 18 or older and 1,350 cases were filed for the use of drug paraphernalia by someone 18 or older. Because data are not available on how many of the 1,350 cases for use of drug paraphernalia involved marijuana, it is not possible to project the number of cases that would no longer be filed in the superior courts. However, as an example, if it is assumed that one half of the use of drug paraphernalia cases involved marijuana and based on the 2008 numbers there would be a total reduction of approximately 1,725 superior court cases with an impact statewide of reducing the number of judges needed by 1.75 FTE, the number of administrative staff by 4 FTE, and the number of county clerk staff by 6 FTE. The annual reduction in costs would be \$185,000 for the state and \$1,020,000 for the counties.

#### Impact on the Courts of Limited Jurisdiction

The impacts of Sections 1, 2, 3, 5, and 6 are expected to include a reduction in the number of hearings in courts of limited jurisdiction. In addition, processing costs would decline since infraction cases take significantly less time to handle than criminal cases. Data are not available that would enable the impact to be projected. However, as an example, if it is assumed that approximately 1,700 superior court cases would then be filed in courts of limited jurisdiction and that 15,200 cases in courts of limited jurisdiction would be affected by the changes (based on 11,414 cases in 2008 for possession of 40 grams or less of marijuana by someone 18 or older, and assuming that one half of the 7,513 cases filed in courts of limited jurisdiction for use of drug paraphernalia would be affected), the total number of cases affected by Sections 1, 2, 3, and 5 would be approximately 16,900.

In this example, based on the assumptions in the above paragraph and assuming the impact of the bill was also to reduce the number of cases filed by 25 percent, the impacts in the district courts would be to reduce the number of judges needed statewide by 1.8 FTE and the number of administrative staff by 12 FTE. The annual cost reduction to the counties would be \$1,170,000. The impacts in the municipal courts would be to reduce the number of judges needed statewide by 1.9 FTE and the number of administrative staff by 22 FTE. The annual cost reduction to the cities would be \$2,350,000.

### **Part III: Expenditure Detail**

### **Part IV: Capital Budget Impact**

## SUPERIOR COURT STANDARD ASSUMPTIONS

|                                  | LOCAL COSTS              |                          |                  | STATE COSTS                    |                                      |
|----------------------------------|--------------------------|--------------------------|------------------|--------------------------------|--------------------------------------|
|                                  | Staff Ratio              | Salary & Benefits        | Operational      | Capital Facility               | Salary & Benefits                    |
| Superior Court Judicial Officers | N/A                      | \$74,416<br>(1/2 salary) | Included below   | \$591,000 per judicial officer | \$105,971<br>(1/2 salary + benefits) |
| Superior Court Line Staff        | 2.3 per judicial officer | \$48,146                 | \$58,159 per FTE | \$36,000 per staff person      | \$0                                  |
| County Clerk Line Staff          | 3.5 per judicial officer | \$48,146                 | \$12,663 per FTE | \$36,000 per staff person      | \$0                                  |

**Notes:**

1. Staffing data for 2007 reported to AOC by the courts and county clerks.
2. Superior court judges' salary set by the Salary Commission. The county pays half of the judges' salary. The state pays half the salary and 100% of the benefits.
3. Local operational cost from the Washington State Auditor's 2007 LGFRS Data.
4. Staff salary from the Washington City and County Employee 2008 Salary & Benefit Survey. Benefits estimated at 23%.
5. A 1998 study by the National Center for State Courts, entitled The Courthouse: A Planning and Design Guide for Court Facilities, recommends that each superior court judicial officer requires 1,970 square feet and that each support staff position requires 120 square feet. Washington State Office of Financial Management, Capital Section, staff estimate that the average cost per square foot is \$300.

## DISTRICT COURT STANDARD ASSUMPTIONS

|                                  | LOCAL COSTS              |                   |                  | STATE COSTS      |                   |
|----------------------------------|--------------------------|-------------------|------------------|------------------|-------------------|
|                                  | Staff Ratio              | Salary & Benefits | Operational      | Capital Facility | Salary & Benefits |
| District Court Judicial Officers | N/A                      | \$174,303         | Included below   | \$555,000        | \$0               |
| District Court Line Staff        | 6.5 per judicial officer | \$48,146          | \$21,495 per FTE | \$36,000         | \$0               |

**Notes:**

1. Staffing data for 2007 reported to AOC by the courts.
2. District court judges' salary set by the Salary Commission. Benefits estimated at 23%. Pursuant to RCW 43.08.250, one-half of the funds in the public safety and education account, equal justice sub-account, is remitted to counties and cities to fund a portion of district and municipal court judges' salary expense. In 2009, each county will receive approximately \$25,000 per elected judge as partial payment of the judge salaries by the State. Jurisdictions receiving a state contribution for judges salaries are required to place an amount equal to that received from the state for judges' salaries into a local trial court improvement account. The net cost of a new district court judge is, therefore, the same for local government. Because the net cost is the same to local government, the total salary cost reflected for district court judges does not reflect the amount paid for by the state and reflects an entire annual salary amount. Note that there is also not a corresponding state expense for new judge positions because the amount allocated from the equal justice sub-account is distributed across all qualifying judge positions, regardless of whether the number of judge FTE increases or decreases.
3. Local operational cost from the Washington State Auditor's 2007 LGFRS Data.
4. Staff salary from the 2008 Washington City and County Employee Salary & Benefit Survey. Benefits estimated at 23%.
5. A 1998 study by the National Center for State Courts, entitled The Courthouse: A Planning and Design Guide for Court Facilities, recommends that each limited jurisdiction court judicial officer requires 1,850 square feet and that each support staff position requires 120 square feet. Washington State Office of Financial Management, Capital Section, staff estimate that the average cost per square foot is \$300.

## MUNICIPAL COURT STANDARD ASSUMPTIONS

|                                   | LOCAL COSTS               |                   |                | STATE COSTS      |                   |
|-----------------------------------|---------------------------|-------------------|----------------|------------------|-------------------|
|                                   | Staff Ratio               | Salary & Benefits | Operational    | Capital Facility | Salary & Benefits |
| Municipal Court Judicial Officers | N/A                       | \$156,500         | Included below | \$555,000        | \$0               |
| Municipal Court Line Staff        | 11.3 per judicial officer | \$54,393          | \$36,195       | \$36,000         | \$0               |

**Notes:**

1. Staffing data for 2007 reported to AOC by the courts.
2. Judicial salary data from the 2003 DMCJA Salary Survey + CPI-W. Benefits estimated at 23%. Pursuant to RCW 43.08.250, one-half of the funds in the public safety and education account, equal justice sub-account, is remitted to counties and cities to fund a portion of district and municipal court judges' salary expense. In 2009, each city will receive approximately \$24,000 per elected judge as partial payment of the judge salaries by the State. Jurisdictions receiving a state contribution for judges salaries are required to place an amount equal to that received from the state for judges' salaries into a local trial court improvement account. The net cost of a qualified municipal court judge position is, therefore, the same for local government. Because the net cost is the same to local government, the total salary cost reflected for municipal court judges does not reflect the amount paid for by the state and reflects an entire annual salary amount. Note that there is also not a corresponding state expense for new judge positions because the amount allocated from the equal justice sub-account is distributed across all qualifying judge positions, regardless of whether the number of judge FTE increases or decreases.
3. Local operational cost from the Washington State Auditor's 2007 LGFRS Data.
4. Staff salary from the 2008 Washington City and County Employee Salary & Benefit Survey. Benefits estimated at 23%.
5. A 1998 study by the National Center for State Courts, entitled The Courthouse: A Planning and Design Guide for Court Facilities, recommends that each limited jurisdiction court judicial officer requires 1,850 square feet and that each support staff position requires 120 square feet. Washington State Office of Financial Management, Capital Section, staff estimate that the average cost per square foot is \$300.

# Individual State Agency Fiscal Note

|                             |                                    |   |
|-----------------------------|------------------------------------|---|
| <b>Bill Number:</b> 5615 SB | <b>Title:</b> Marijuana possession | <b>Agency:</b> 056-Office of Public Defense |
|-----------------------------|------------------------------------|---|

**Part I: Estimates**

**No Fiscal Impact**

*The cash receipts and expenditure estimates on this page represent the most likely fiscal impact. Factors impacting the precision of these estimates, and alternate ranges (if appropriate), are explained in Part II.*

Check applicable boxes and follow corresponding instructions:

- If fiscal impact is greater than \$50,000 per fiscal year in the current biennium or in subsequent biennia, complete entire fiscal note form Parts I-V.
- If fiscal impact is less than \$50,000 per fiscal year in the current biennium or in subsequent biennia, complete this page only (Part I).
- Capital budget impact, complete Part IV.
- Requires new rule making, complete Part V.

|                                    |                       |                  |
|------------------------------------|-----------------------|------------------|
| Legislative Contact: Juliana Roe   | Phone: (360) 786-7438 | Date: 02/20/2009 |
| Agency Preparation: Candace Martin | Phone: 360-586-3164   | Date: 02/25/2009 |
| Agency Approval: Joanne Moore      | Phone: 360 956-2107   | Date: 02/25/2009 |
| OFM Review: Cherie Berthon         | Phone: 360-902-0659   | Date: 02/27/2009 |

Request # 056-1

## Part II: Narrative Explanation

### II. A - Brief Description Of What The Measure Does That Has Fiscal Impact

*Briefly describe by section number, the significant provisions of the bill, and any related workload or policy assumptions, that have revenue or expenditure impact on the responding agency.*

### II. B - Cash receipts Impact

*Briefly describe and quantify the cash receipts impact of the legislation on the responding agency, identifying the cash receipts provisions by section number and when appropriate the detail of the revenue sources. Briefly describe the factual basis of the assumptions and the method by which the cash receipts impact is derived. Explain how workload assumptions translate into estimates. Distinguish between one time and ongoing functions.*

N/A

### II. C - Expenditures

*Briefly describe the agency expenditures necessary to implement this legislation (or savings resulting from this legislation), identifying by section number the provisions of the legislation that result in the expenditures (or savings). Briefly describe the factual basis of the assumptions and the method by which the expenditure impact is derived. Explain how workload assumptions translate into cost estimates. Distinguish between one time and ongoing functions.*

N/A

## Part III: Expenditure Detail

## Part IV: Capital Budget Impact

N/A

## Part V: New Rule Making Required

*Identify provisions of the measure that require the agency to adopt new administrative rules or repeal/revise existing rules.*

# Individual State Agency Fiscal Note

|                             |                                    |  |
|-----------------------------|------------------------------------|--|
| <b>Bill Number:</b> 5615 SB | <b>Title:</b> Marijuana possession | <b>Agency:</b> 057-Office of Civil Legal Aid |
|-----------------------------|------------------------------------|--|

## Part I: Estimates

**No Fiscal Impact**

*The cash receipts and expenditure estimates on this page represent the most likely fiscal impact. Factors impacting the precision of these estimates, and alternate ranges (if appropriate), are explained in Part II.*

Check applicable boxes and follow corresponding instructions:

- If fiscal impact is greater than \$50,000 per fiscal year in the current biennium or in subsequent biennia, complete entire fiscal note form Parts I-V.
- If fiscal impact is less than \$50,000 per fiscal year in the current biennium or in subsequent biennia, complete this page only (Part I).
- Capital budget impact, complete Part IV.
- Requires new rule making, complete Part V.

|                                   |                       |                  |
|-----------------------------------|-----------------------|------------------|
| Legislative Contact: Juliana Roe  | Phone: (360) 786-7438 | Date: 02/20/2009 |
| Agency Preparation: Jim Bamberger | Phone: (360) 704-4135 | Date: 03/02/2009 |
| Agency Approval: Jim Bamberger    | Phone: (360) 704-4135 | Date: 03/02/2009 |
| OFM Review: Cherie Berthon        | Phone: 360-902-0659   | Date: 03/02/2009 |

Request # 09-01-1

*Briefly describe by section number, the significant provisions of the bill, and any related workload or policy assumptions, that have revenue or expenditure impact on the responding agency.*

*Briefly describe and quantify the cash receipts impact of the legislation on the responding agency, identifying the cash receipts provisions by section number and when appropriate the detail of the revenue sources. Briefly describe the factual basis of the assumptions and the method by which the cash receipts impact is derived. Explain how workload assumptions translate into estimates. Distinguish between one time and ongoing functions.*

*Briefly describe the agency expenditures necessary to implement this legislation (or savings resulting from this legislation), identifying by section number the provisions of the legislation that result in the expenditures (or savings). Briefly describe the factual basis of the assumptions and the method by which the expenditure impact is derived. Explain how workload assumptions translate into cost estimates. Distinguish between one time and ongoing functions.*

# Individual State Agency Fiscal Note

|                             |                                    |   |
|-----------------------------|------------------------------------|---|
| <b>Bill Number:</b> 5615 SB | <b>Title:</b> Marijuana possession | <b>Agency:</b> 303-Department of Health |
|-----------------------------|------------------------------------|---|

## Part I: Estimates

**No Fiscal Impact**

*The cash receipts and expenditure estimates on this page represent the most likely fiscal impact. Factors impacting the precision of these estimates, and alternate ranges (if appropriate), are explained in Part II.*

Check applicable boxes and follow corresponding instructions:

- If fiscal impact is greater than \$50,000 per fiscal year in the current biennium or in subsequent biennia, complete entire fiscal note form Parts I-V.
- If fiscal impact is less than \$50,000 per fiscal year in the current biennium or in subsequent biennia, complete this page only (Part I).
- Capital budget impact, complete Part IV.
- Requires new rule making, complete Part V.

|                                  |                       |                  |
|----------------------------------|-----------------------|------------------|
| Legislative Contact: Juliana Roe | Phone: (360) 786-7438 | Date: 02/20/2009 |
| Agency Preparation: Danny Howard | Phone: (360) 236-4625 | Date: 02/24/2009 |
| Agency Approval: Connie Soiberg  | Phone: 360-236-4529   | Date: 02/24/2009 |
| OFM Review: Nick Lutes           | Phone: 360-902-0570   | Date: 02/24/2009 |

Request # 09-130-1

## **Part II: Narrative Explanation**

### **II. A - Brief Description Of What The Measure Does That Has Fiscal Impact**

*Briefly describe by section number, the significant provisions of the bill, and any related workload or policy assumptions, that have revenue or expenditure impact on the responding agency.*

This bill reclassifies the possession of forty grams or less of marijuana (marihuana) from a misdemeanor to a class 2 civil infraction for people 18 years and older. Also adds a monetary penalty of \$100 for each infraction, which will be deposited into the criminal justice treatment account.

Since the Department of Health (DOH), Health Systems Quality Assurance (HSQA) does not have any relationship to these amendments and new sections, there will be no fiscal impact.

### **II. B - Cash receipts Impact**

*Briefly describe and quantify the cash receipts impact of the legislation on the responding agency, identifying the cash receipts provisions by section number and when appropriate the detail of the revenue sources. Briefly describe the factual basis of the assumptions and the method by which the cash receipts impact is derived. Explain how workload assumptions translate into estimates. Distinguish between one time and ongoing functions.*

### **II. C - Expenditures**

*Briefly describe the agency expenditures necessary to implement this legislation (or savings resulting from this legislation), identifying by section number the provisions of the legislation that result in the expenditures (or savings). Briefly describe the factual basis of the assumptions and the method by which the expenditure impact is derived. Explain how workload assumptions translate into cost estimates. Distinguish between one time and ongoing functions.*

## **Part III: Expenditure Detail**

## **Part IV: Capital Budget Impact**

## **Part V: New Rule Making Required**

*Identify provisions of the measure that require the agency to adopt new administrative rules or repeal/revise existing rules.*

# LOCAL GOVERNMENT FISCAL NOTE

Department of Community, Trade and Economic Development

|                             |                                    |
|-----------------------------|------------------------------------|
| <b>Bill Number:</b> 5615 SB | <b>Title:</b> Marijuana possession |
|-----------------------------|------------------------------------|

**Part I: Jurisdiction**-Location, type or status of political subdivision defines range of fiscal impacts.

**Legislation Impacts:**

- Cities: May reduce prosecution, defense, and jail costs
- Counties: As above
- Special Districts:
- Specific jurisdictions only:
- Variance occurs due to:

**Part II: Estimates**

- No fiscal impacts.
- Expenditures represent one-time costs:
- Legislation provides local option:
- Key variables cannot be estimated with certainty at this time:      Number of arrests, charges and trials

**Estimated revenue impacts to:**

| Jurisdiction          | FY 2010 | FY 2011 | 2009-11 | 2011-13 | 2013-15 |
|-----------------------|---------|---------|---------|---------|---------|
| City                  |         |         |         |         |         |
| County                |         |         |         |         |         |
| Special District      |         |         |         |         |         |
| <b>TOTAL \$</b>       |         |         |         |         |         |
| <b>GRAND TOTAL \$</b> |         |         |         |         |         |

**Estimated expenditure impacts to:**

|                             |
|-----------------------------|
| <b>Indeterminate Impact</b> |
|-----------------------------|

**Part III: Preparation and Approval**

|                                     |                       |                  |
|-------------------------------------|-----------------------|------------------|
| Fiscal Note Analyst: David Elliott  | Phone: (360) 725 5033 | Date: 03/02/2009 |
| Leg. Committee Contact: Juliana Roe | Phone: (360) 786-7438 | Date: 02/20/2009 |
| Agency Approval: Steve Salmi        | Phone: (360) 725 5034 | Date: 03/02/2009 |
| OFM Review: Cherie Berthon          | Phone: 360-902-0659   | Date: 03/02/2009 |

## **Part IV: Analysis**

### **A. SUMMARY OF BILL**

*Provide a clear, succinct description of the bill with an emphasis on how it impacts local government.*

The bill changes the penalties associated with possession of less than 40 grams of marijuana from a misdemeanor to a class 2 civil infraction for persons over 18 years of age. Removes possession of less than 40 grams of marijuana from the list of crimes eligible for increased sentences, changes possession of drug paraphernalia related to only marijuana from a misdemeanor to a class 2 civil infraction for person 18 years of age, provides for monetary penalties collected for class 2 civil infractions to be deposited in the criminal justice treatment account, and removes the use or possession of cannabis from the list of circumstances for probable cause for arrest.

Section 1 amends 69.50.4014 RCW to amend the crime of possession of less than 40 grams of marijuana from a misdemeanor to a class 2 civil infraction for persons over 18 years of age.

Section 2 amends 69.50.408 RCW to remove possession of less than 40 grams of marijuana from the list of crimes eligible for increased sentences and fines.

Section 3 amends 69.50.412 RCW to amend the crime of possession of drug paraphernalia related to only marijuana from a misdemeanor to a class 2 civil infraction for person 18 years of age.

Section 5 amends 10.31.100 RCW to remove the use or possession of cannabis from the list of circumstances for probable cause for arrest.

### **B. SUMMARY OF EXPENDITURE IMPACTS**

*Briefly describe and quantify the expenditure impacts of the legislation on local governments, identifying the expenditure provisions by section number, and when appropriate, the detail of expenditures. Delineate between city, county and special district impacts.*

The impacts of this bill are indeterminate because it is not possible to determine the number of paraphernalia arrests and charges that would be subject to the changes contained in the bill. There may be significant expenditure reductions for charging and trying fewer misdemeanor crimes. There is also expected to be a reduction in jail sentences due to fewer misdemeanor convictions. Removing possession of less than 40 grams of marijuana from the list of crimes subject to double sentences should shorten sentences under 69.50.408. Jail sentences are a local expense. There are also potential court impacts and court fine revenue impacts that would affect cities and counties; these are detailed in the Administrative Office of the Courts (AOC) fiscal note. AOC addresses court related fiscal impacts.

The average misdemeanor prosecution, defense, and jail sentence cost, per charge equals \$2,137. The cost of trying all 5,280 misdemeanor convictions for possession of less than 40 grams of marijuana that would be converted into civil infractions by the bill is estimated at \$11,283,360. There may be other savings for fewer arrests, and fewer misdemeanor charges for paraphernalia related offenses, but those cannot be estimated.

#### **REDUCTION IN ARRESTS:**

There is expected to be a reduction in the number of arrests made as a result of the amendment to 10.31.100. Statistics provided by the Washington State Patrol show 8,273 adult arrests in 2008 for possession of less than 40 grams of marijuana and 8,625 for paraphernalia, it is not known how many of the paraphernalia arrests were related to cannabis. There may be other factors that lead to an individual arrest for any police contact involving marijuana, so many arrests will still occur, but there will very likely be a reduction in the total number of arrests made. The cost of an arrest for similar misdemeanor crimes averages \$375. Issuing the class 2 civil infraction will also have associated costs that average \$215. The estimated differential between the misdemeanor arrest and the issuance of an infraction is \$160. Both include officer time, paperwork, and court appearance time. The arrest also includes transportation and additional officer time for booking (LGFN survey of law enforcement costs 2008).

#### **REDUCTION IN MISDEMEANOR CASES:**

According to the Administrative Office of the Courts (AOC) in 2008, 12,463 cases were filed in courts for possession of 40 grams or less of marijuana by someone 18 or older and 8,863 cases were filed for the use of drug paraphernalia by someone 18 or older. There will be fewer misdemeanor charges filed for possession of marijuana. There will also probably be some reduction in the paraphernalia cases; it is not possible to predict the number, because not all paraphernalia charges under 69.50.412 RCW involve marijuana.

In 2008 there were 5,280 convictions for possession of less than 40 grams of marijuana and 2,682 convictions for possession of drug paraphernalia leading to jail sentences. It is not know how many of the paraphernalia convictions were related to cannabis, and therefore would not have been charged.

It is possible to estimate the expenditure reductions associated with fewer adult misdemeanors cases for possession of marijuana; it is not

possible to estimate the same reductions for paraphernalia, as not all existing paraphernalia charges fit the circumstances of the bill. If all 5,280 misdemeanor convictions for possession of less than 40 grams of marijuana had not been tried and sentences not served, the reduction in expenditure would be \$11,283,360 per year (5,280 cases x \$2,370 per case = \$11,283,360).

#### PROSECUTION, DEFENSE AND JAIL COSTS FOR MISDEMEANOR CRIMES:

Prosecution costs -- The average cost for prosecuting a misdemeanor crime is approximately \$884 per case (LGFN 2008 prosecutor survey).

Public defender costs -- Approximately 93 percent of misdemeanor cases qualify for public defender representation. The average cost for public defense representation is approximately \$935 per case (LGFN 2008 defender survey).

Jail costs -- A person convicted of a misdemeanor would serve their sentence in jail (a local cost). It is not clear what the average sentence for this crime would be. According to the AOC 2008 misdemeanor convictions table the average jail sentence for Possession of Marijuana of less the 40 grams was 87 days with all but 4.3 days suspended. The daily jail bed rate is \$74, according to the LGFN 2008 jail cost survey (weighted by population). The cost of a sentence would be \$318 (4.3 days x \$74 a day = \$318).

The combined reduction in costs for each misdemeanor not charged, prosecuted, defended, sentenced and jail time not served is \$2,137 (\$884 prosecution + \$935 defense + \$318 jail = \$2,137).

A note about public defense costs -- Because public defense varies greatly in Washington State, LGFN uses a range of costs for defense depending on the county providing the defense. Larger counties have offices of public defense that are similar in size and capability to the county prosecutor's office. These offices have resources and salary parity comparable to the prosecuting attorney and have access to investigators and other resources at county expense. Many counties contract with local law firms and nonprofit defense agencies on a variety of basis. Some counties pay per case, some per hour, some pay trial costs on a per diem basis while others pay on a per-hour basis. More is paid for felony cases than misdemeanor cases. Finally, some counties hire local attorneys on a case by case basis, either on a per-hour or per-case basis. Most of the counties will reimburse investigative costs after a petition to the court. The Washington Defender Association (WDA) estimates that the primary fiscal impact on public defenders will be due to an increase in trial caseloads resulting from the increased sentencing ranges (2008 LGFN defender cost survey).

#### C. SUMMARY OF REVENUE IMPACTS

*Briefly describe and quantify the revenue impacts of the legislation on local governments, identifying the revenue provisions by section number, and when appropriate, the detail of revenue sources. Delineate between city, county and special district impacts.*

None

#### SOURCES CITED FOR EXPENDITURES AND REVENUES:

Administrative Office of the Courts (AOC) fiscal note  
Sentencing Guidelines Commission (SGC) fiscal note  
Washington Association of Prosecuting Attorneys  
Washington Defenders Association  
Administrative Office of the Courts "Top twenty misdemeanor report" 2008  
LGFN 2008 prosecutor costs survey  
LGFN 2008 jail cost survey (weighted by population)  
LGFN 2008 public defender costs survey  
LGFN 2008 City law enforcement costs survey  
LGFN 2008 County law enforcement cost survey