

## REVENUE ESTIMATING CONFERENCE

**Tax:** Medical use of low-THC cannabis

**Issue:** Sales and property tax issues and Department of Health fees

**Bill Number(s):** CS/CS/SB 1030, Enrolled, Engrossed

**Entire Bill**

**Partial Bill:**

**Sponsor(s):** Bradley

**Month/Year Impact Begins:** Upon becoming law, except as otherwise specified

**Date of Analysis:** May 29, 2014

### Section 1: Narrative

**a. Current Law:** Currently, low-THC cannabis is not legally sold in Florida due to its classification, described below. Florida's drug control laws are contained in Chapter 893, F.S., entitled the Florida Comprehensive Drug Abuse Prevention and Control Act (Drug Control Act). The Drug Control Act classifies controlled substances into five categories, ranging from Schedule I to Schedule V consistent with federal regulations. Cannabis is currently a Schedule I controlled substance, which means it has a high potential for abuse and has no currently accepted medical use in treatment in the United States and its use under medical supervision does not meet accepted safety standards. Section 893.02, F.S., defines cannabis as "all parts of any plant of the genus Cannabis, whether growing or not; the seeds thereof; the resin extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture, or preparation of the plant or its seeds or resin".

The Drug Control Act contains a variety of provisions criminalizing behavior related to cannabis, without exception. The majority of these penalties are found in section 893.13, F.S., which makes it a crime to sell, manufacture, deliver, purchase, and possess cannabis. The penalties for these offenses range from first degree misdemeanors to second degree felonies. The Drug Control Act also criminalizes trafficking in cannabis, and various acts involving drug paraphernalia.

**b. Proposed Change:** CS/CS/SB 1030 creates the "Compassionate Medical Cannabis Act of 2014". The bill creates section 381.986, F.S., relating to compassionate use of low-THC cannabis, that provides: a series of applicable definitions under the act; authority for physician ordering of low-THC cannabis under specified circumstances; applicable penalties for physicians and patients; requirements for specific education for ordering physicians; duties of the Department of Health (DOH), including those relating to a compassionate use registry creation and access, and dispensing organization requirements specific to number, area of coverage, and provisions specific to technical and technological abilities, security, accountability, infrastructure, financial ability, including bonding, background screening, employment of a supervising physician, monitoring of physician registration and ordering practices, and rulemaking; compliance, verification, and recordkeeping requirements for dispensing organizations; and specific exceptions to otherwise applicable drug control laws under Chapter 893, F.S., for qualified patients and their legal representatives and for dispensing organizations, and applicable pharmacy laws under Chapter 465, F.S., for dispensing organizations.

The bill creates:

- Section 385.211, F.S., specifying the authority under which recognized medical centers may conduct low-THC cannabis epilepsy research and treatment trials, notwithstanding otherwise applicable drug control laws under Chapter 893, F.S.
- Section 385.212, F.S., directing DOH to establish an Office of Compassionate Use to enhance access to investigational new drugs.
- Section 1004.441, F.S., encouraging treatment and research specific to refractory and intractable epilepsy.
- An undesignated section of statute to foster research efforts specific to low-THC cannabis, including \$1 million in funding in DOH's biomedical research fund for SFY 2014-15.

The bill amends section 893.02, F.S., relating to applicable definitions under the drug control laws, to amend the definition of cannabis to exclude from the definition low-THC cannabis as defined in section 381.986, F.S., if manufactured, possessed, sold, purchased, delivered, distributed, or dispensed under section 381.986, F.S.

### Section 2: Description of Data and Sources

Financial Impact Estimating Conference on proposed constitutional amendment "Use of Marijuana for Certain Medical Conditions" 13-02, Florida Legislature, Office of Economic and Demographic Research, <http://edr.state.fl.us/Content/constitutional-amendments/index.cfm>.

Florida Department of Revenue, phone conversations and emails, dated May 14, 15, 20, 21, & 27, 2014.

Florida Department of Agriculture and Consumer Services, email dated May 15, 2014.

Florida Department of Health, emails dated week of May 12, 2014.

## REVENUE ESTIMATING CONFERENCE

**Tax:** Medical use of low-THC cannabis

**Issue:** Sales and property tax issues and Department of Health fees

**Bill Number(s):** CS/CS/SB 1030, Enrolled, Engrossed

Florida Department of Business and Professional Regulation, phone conversation, May 27, 2014.

Florida House of Representatives Final Bill Analysis of CS/CS/HB 843,

<http://www.myfloridahouse.gov/Sections/Documents/loaddoc.aspx?FileName=h0843z.CRJS.DOCX&DocumentType=Analysis&BillNumber=0843&Session=2014>.

Realm of Caring Foundation, Colorado Springs, Colorado, phone conversation & emails, May 14, 19, & 27, 2014.

Additional sources are footnoted in Section 3: Methodology.

### Section 3: Methodology (Include Assumptions and Attach Details)

#### Florida Sales Tax Treatment of Low-THC Cannabis:

Since low-THC cannabis is tangible personal property for the purposes of Chapter 212, Florida Statutes, its purchase is subject to Florida sales and use tax unless a specific exemption exists. In this regard, there are three areas of current law exemptions that are potentially relevant: prescription-based exemptions, the common household remedy exemption, and agricultural-related exemptions.

#### *Prescription-Based Exemption*

The FIEC had determined that the prescription-based exemptions do not apply to medical marijuana purchases due to technical constraints that include the interaction of state and federal law. This analysis for CS/CS/SB1030 assumes that the reasoning from the FIEC applies to the low-THC cannabis as well. Section 465.003 F.S. defines a prescription as “any order for drugs or medicinal supplies written or transmitted by any means of communication by a duly licensed practitioner authorized by the laws of the state to prescribe such drugs or medicinal supplies and intended to be dispensed by a pharmacist.” Current federal law prohibits a physician from writing prescriptions for Schedule I controlled substances, which would include cannabis. Moreover, the bill requires low-THC cannabis to be dispensed by an authorized dispensing organization, which is not expected to be a pharmacy. Similarly, the exemption for medical products requires a prescription and would not be applicable to the sales of supplies related to low-THC cannabis.

#### *Common Household Remedy Exemption*

The determination of whether low-THC cannabis is a common household remedy is also potentially relevant. The sales tax exemption for common household remedies does not require the presence of a prescription. Pursuant to s. 212.08 F.S., the Department of Business and Professional Regulation (DBPR) must approve a list of these items, and that list is then certified to and adopted by the Department of Revenue through the rule-making process. There is also a process for inclusion of additional items. The existing list contains a mixture of specifically named remedies and broad classes of remedies. During the FIEC discussion, both departments identified reasons why the exemption may not apply, emphasizing the restrictive nature of the dispensing process. The dispensing process seems to be even more restricted in CS/CS/SB1030, so the reasoning should still apply. Further, it may be possible that some supplies related to the use of low-THC cannabis are already on the list so each item would have to be evaluated on a case-by-case basis even if the sale of low-THC cannabis itself is taxable.

Regarding CS/CS/SB1030, DBPR states that low-THC cannabis does not fit under any category on the currently adopted Common Household Remedies list (DR-46NT, R. 07/10), nor does DBPR expect to modify the “Common Household Remedies” listing to add low-THC cannabis in the foreseeable future. The department cites federal regulations which continue to designate any form of marijuana as a Schedule I drug with no current authorized use and no treatment value.

#### *Agricultural-Related Exemption*

This analysis assumes low-THC cannabis would be considered an “agricultural product” for sales tax purposes since currently there are no exclusions in the definitions of “crops” or “agricultural products” specified for cannabis and there is no explicit law or rule that precludes cannabis from being an “agricultural product.” If low-THC cannabis is an agricultural product, then the sales tax exemption for agricultural production (Section 212.02(32) F.S.) might apply in certain cases.

In this regard, the agricultural-related exemption would apply to sales of low-THC cannabis when the grower or cultivator sells or dispenses the agricultural product directly to the qualified patient for whom it was ordered or the qualified patient’s legal representative on behalf of the qualified patient. This is the means by which sales would occur under CS/CS/SB 1030. However, any transformation of this agricultural product would cause the sale to lose the exemption. Therefore, the form of the final dispensed product would determine if the agricultural-related exemption applies. At this stage, there is not enough information about the

## REVENUE ESTIMATING CONFERENCE

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**Issue:** Sales and property tax issues and Department of Health fees

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forms in which the product will be dispensed in the Florida market to determine definitively to what extent the agricultural exemption would or would not apply. If low-THC cannabis is sold without any processing, since it will be dispensed directly to the end consumer by the grower, the agricultural-related exemption might apply. If the cannabis is processed after the harvesting and the product undergoes any transformation whatsoever, then the sales tax exemption for agricultural production does not apply.

Low-THC cannabis is typically sold as oil which has been extracted from the plant. The Department of Revenue has indicated that the agricultural-related sales tax exemption will no longer apply because the exemption only applies through the point of harvesting. The oil extraction would be considered a transformation. In this case, the sale of the oil would be subject to sales tax.

### *Estimate of Potential Users*

There is no sufficient information available as to the market value of low-THC cannabis, for whom the product might be ordered, and the quantity that might be ordered. Therefore, the sales tax estimate that follows is provided for reference purposes only. CS/CS/SB 1030 specifies that a physician licensed under chapter 458 or chapter 459 who has examined and is treating a patient suffering from cancer or a physical medical condition that chronically produces symptoms of seizures or severe and persistent muscle spasms may order for the patient's medical use low-THC cannabis to treat such disease, disorder, or condition or to alleviate symptoms of such disease, disorder, or condition, if no other satisfactory alternative treatment options exist for that patient. A sample list of conditions that may be covered under this bill may include the following among others:

- Cancer
  - Cancer
- Seizures
  - Epilepsy
- Muscle spasms
  - Multiple sclerosis
  - ALS (Amyotrophic lateral sclerosis)
  - Parkinson's

### *Cancer*

Cancer patients tend to use cannabis with higher concentration of THC because this kind helps with nausea. No determination was made here as to whether cancer patients will find the allowable THC content in the bill sufficient. This analysis assumes that cancer patients will use exclusively the low-THC even in the case the medical marijuana constitutional amendment passes. If the constitutional amendment passes, cancer patients may choose to use cannabis with higher concentrations of THC than allowed under the bill.

Florida cancer patients (newly diagnosed that year or diagnosed in a previous year) were estimated at 795,135 in 2011 and are projected to grow to 835,060 in 2015<sup>1</sup>. Registry data from seven other states that have legalized medical marijuana as of 2013 show that an average of 3.4% of all registered medical marijuana users have cancer as at least one of the conditions for which they use marijuana. Also, an average of 0.71% of all cancer patients use medical marijuana<sup>2</sup>. Applying this average to the Florida population expected to be living with cancer (the cancer prevalence) in 2015, it is estimated that there might be approximately 5,900 cancer patients that will use low-THC cannabis in 2015.

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<sup>1</sup> Financial Impact Estimating Conference on proposed constitutional amendment "Use of Marijuana for Certain Medical Conditions" 13-02, Additional Information, Florida Legislature, Office of Economic and Demographic Research Notebook from Public Workshop held on October 21, 2013, [http://edr.state.fl.us/Content/constitutional-amendments/2014Ballot/UseofMarijuanaforCertainMedicalConditions/WorkshopNotebook\\_10-21-13.pdf](http://edr.state.fl.us/Content/constitutional-amendments/2014Ballot/UseofMarijuanaforCertainMedicalConditions/WorkshopNotebook_10-21-13.pdf), 2015 population projection updated with February 2014 Demographic Estimating Conference data. Data source for cancer prevalence: Cancer complete prevalence 2010 data, Surveillance, Epidemiology, and End Results (SEER) Program ([www.seer.cancer.gov](http://www.seer.cancer.gov)). Prevalence database: "US Estimated Complete Prevalence Counts on 1/1/2010". National Cancer Institute, DCCPS, Surveillance Research Program, Data Modeling Branch, released April 2013, based on the November 2012 SEER data submission.

<sup>2</sup> Average calculated using data from *100,000 Reasons: Medical Marijuana In The Big Apple*, Appendix: Methodology, New York City Comptroller John C. Liu, August 2013, [http://comptroller.nyc.gov/wp-content/uploads/2013/08/MedMarij\\_Summary-828.pdf](http://comptroller.nyc.gov/wp-content/uploads/2013/08/MedMarij_Summary-828.pdf).

## REVENUE ESTIMATING CONFERENCE

**Tax:** Medical use of low-THC cannabis

**Issue:** Sales and property tax issues and Department of Health fees

**Bill Number(s):** CS/CS/SB 1030, Enrolled, Engrossed

### *Seizures/Epilepsy*

Estimates of persons with epilepsy are scant and not up-to-date at the national level and even more so in Florida. In addition, there is a stigma associated with epilepsy, so data might underreport actual numbers because individuals are not willing to disclose their condition.

There will be an estimated 395,000 Floridians with epilepsy/seizures in 2015 assuming 2% of the population has epilepsy<sup>3</sup>. An average of less than 1% of all epilepsy patients from eight other states use medical marijuana<sup>4</sup>. Thus, assuming that the same percentage of epilepsy patients will use low-THC cannabis as in other states, there might be an estimated 3,400 users of low-THC cannabis in Florida in 2015.

Research identified some alternative estimates for epilepsy prevalence. These estimates are included for reference purposes and were not accounted for in the analysis that follows but may be used additionally to develop range estimates. A news report states that there are 150,000 Florida families with children with epilepsy<sup>5</sup>; however, the source was not mentioned. A survey conducted by the Centers for Disease Control and Prevention's National Center for Health Statistics estimates that there were 27,000 children (0-17 years) with epilepsy or seizure disorder in Florida in 2009-2010<sup>6</sup>. The Centers for Disease Control and Prevention's Behavioral Risk Factor Surveillance System (BRFSS) estimates that 1.65% of adults (18+ years) in Florida (293,340 adults) had epilepsy in 2005. This estimate of 1.65% of adults is lower than the 2% estimate of persons all ages adopted in the analysis that follows. The 2% estimate, developed by the Epilepsy Foundation of Florida aims to account for the entire population, including children, who have higher epilepsy prevalence than the adult population.

Another way to estimate low-THC use among epilepsy patients in Florida is to use data from Colorado. This estimate is also included for reference purposes only and has not been included in the analysis that follows. In Colorado, there were 285 patients under 18 years of age in the medical marijuana registry as of March 2014, compared to 35 patients in the same month in 2013<sup>7</sup>. There are no published data by condition for these minors. The number of seizure patients grew from 1,853 (1.7% of all patients reporting condition) in March 2013 to 2,269 (2% of all patients reporting condition) in March 2014<sup>8</sup>. The total number of patients on the registry increased from 108,483 to 115,208 over the same period. If we use the estimate of up to 450,000 medical marijuana users developed in the FIEC on the proposed constitutional amendment "Use of Marijuana for Certain Medical Conditions" and assume that Florida would have the same share of epilepsy users as Colorado, there might be up to 9,000 users of low-THC with epilepsy in Florida.

### *Muscle Spasms*

There were no sufficient statistics at the time of the analysis to allow an accurate estimate of the Florida population suffering from muscle spasms. The Florida Department of Health does not track cases of Parkinson's and multiple sclerosis and the cases of ALS reported by DOH are fairly low (362 new cases of ALS in Florida each year). There might potentially be other conditions that produce muscle spasms but this analysis did not attempt to create an exhaustive list and the bill itself does not list specific conditions that produce muscle spasms. The potential users of low-THC cannabis with muscle spasms can be estimated by assuming that Florida will have similar shares of users with this condition as other states with medical marijuana programs. Muscle spasms is typically the second largest listed condition of medical marijuana registrants in other states after chronic or severe pain. There is no sufficient evidence to determine whether Florida physicians will interpret "muscle spasms" similarly to physicians in states with current medical marijuana programs, so the use by muscle spasm patients cannot be definitively estimated. Instead, this analysis presents a

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<sup>3</sup> Estimates of the Epilepsy Foundation of Florida, obtained by phone call, based on The Florida Department of Health 2005 Behavioral Risk Factor Surveillance System Survey.

<sup>4</sup> The epilepsy cases in other states are estimated by EDR assuming that other states have the same 2% prevalence as Florida. This likely overstates the number of epilepsy patients in other states since Florida is considered to have a higher share of epilepsy cases due to a higher share of very young and very old persons.

<sup>5</sup> *Florida Market Sparks Marijuana "Green" Rush*, May 8, 2014, <http://miami.cbslocal.com/2014/05/08/florida-market-sparks-marijuana-green-rush/>

<sup>6</sup> National Survey of Children's Health. NSCH 2007. Child and Adolescent Health Measurement Initiative, Data Resource Center for Child and Adolescent Health, <http://www.childhealthdata.org/browse/survey/results?q=1898&r2=11>.

<sup>7</sup> Colorado Department of Public Health and Environment, Medical Marijuana Statistics as of March 31, 2014, <http://www.colorado.gov/cs/Satellite/CDPHE-CHEIS/CBON/1251593017044> (accessed May 14, 2014).

<sup>8</sup> *Id.*

**REVENUE ESTIMATING CONFERENCE**

**Tax:** Medical use of low-THC cannabis

**Issue:** Sales and property tax issues and Department of Health fees

**Bill Number(s):** CS/CS/SB 1030, Enrolled, Engrossed

range of estimates since use by muscle spasm patients varies widely across states. If the estimate of up to 450,000 total medical marijuana users developed in the FIEC on the proposed constitutional amendment “Use of Marijuana for Certain Medical Conditions” is correct and low, middle, and high use shares from other states are used, it can be estimated that there might be from 7,000 to 129,000 users of low-THC cannabis with muscle spasms in Florida.

*Sales Tax for Related Equipment*

The sales of items such as grow lights and hydroponic systems that might be used for the indoor cultivation of low-THC cannabis are generally taxable. However, there is an exemption from sales tax for “power farm equipment.” According to s. 202.02, F.S., “power farm equipment” means “moving or stationary equipment that contains within itself the means for its own propulsion or power and moving or stationary equipment that is dependent upon an external power source to perform its functions.” Therefore, items such as grow lights, and hydroponic systems that are sold as a component part of power farm equipment would likely be exempt. Also, an exemption for industrial machinery equipment (s. 212.08(5)(b), F.S.) may apply to low-THC cannabis processing equipment, such as oil extraction devices or systems.

*Use, Sales, and Sales Tax Revenues Estimation*

Due to the wide range of conditions and the inclusion of population of all ages, associated with a wide range of body weights, the amount of low-THC cannabis to be consumed is difficult to estimate. While other states have exclusively approved low-THC cannabis (Alabama, Kentucky, Mississippi, Tennessee, Utah, and Wisconsin), they have done so too recently to draw upon these states’ experiences. Other states whose use patterns are applied to Florida may not be representative of Florida’s population and use patterns.

Low-THC cannabis therapeutic dosage may vary and there are no federal standards to which to refer. One of the major sources of low-THC cannabis gives a dosage range of 2-6 mg/body weight/day<sup>9</sup>. The dosage may range depending on the condition. This product is used daily and year-round. Prices may vary depending on product potency and cost of growing. Although some prices are presented as a guide, prices in Florida are unknown since production costs may be different from those in other states.

The estimates below assume an average body weight of 100 lbs. They also assume prices in Florida will be the same as in Colorado. The estimates for cancer and epilepsy are middle estimates and assumed to be the only feasible ones due to data limitations for obtaining a wider range of estimates.

**Cancer & Seizures: Estimated Potential Low-THC Cannabis Sales and Sales Tax Revenues**

A	B	C	D	E	F	G	H
	Prevalance (Number of Living Persons with Condition) in 2015	Number of living persons with condition Expected To Use Low-THC cannabis in 2015	Cannabis dosage (mg/day)	Low-THC cannabis price (\$/mg)	Annual Cost per Person (Assumes Daily Usage) (D*E*365) (\$)	Statewide Sales Total (C*F) (\$)	Potential Sales Tax Revenues (G*6%) (\$)
Cancer	835,060	5,905	1,000	0.03	10,950	64,657,681	3,879,461
Seizures (epilepsy)	394,945	3,372	300	0.05	5,475	18,464,221	1,107,853
<b>Subtotal</b>	<b>1,230,004</b>	<b>9,277</b>				<b>83,121,902</b>	<b>4,987,314</b>

A range of estimates is presented for muscle spasm patients, reflecting the range of possible users as discussed in the section above on muscle spasm patients. Since no alternative estimates could be developed due to lack of data on Florida muscle-spasm-related conditions and cannabis use, this analysis uses the estimate of Florida medical marijuana users with muscle spasms developed in the FIEC for the proposed Florida constitutional amendment “Use of Marijuana for Certain Medical Conditions” using statistics from eight other states. The FIEC estimate of total medical marijuana users (up to 450,000) is most likely significantly broader than total low-THC cannabis users as seems to be envisioned in CS/CS/SB1030. So, the muscle spasm patient estimate as applied to this analysis of CS/CS/SB1030 should be used with caution since it potentially overstates the use of low-THC cannabis and thus the potential sales tax collections.

<sup>9</sup> Realm Of Caring Foundation, <https://theroc.us/media/newdocs/FAQ.pdf>

**REVENUE ESTIMATING CONFERENCE**

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**Bill Number(s):** CS/CS/SB 1030, Enrolled, Engrossed

Furthermore, the market structure and regulatory environment envisioned in CS/CS/SB1030 appear to be more restrictive to production and use of cannabis in certain respects than the proposed Florida constitutional amendment “Use of Marijuana for Certain Medical Conditions” and the laws and regulations governing medical marijuana use in eight other states for which statistics on use are available. Some of the states with lower shares of muscle spasm patients seem to have a more restrictive environment for sale of the product than states with higher shares. Compared to states with adopted medical marijuana laws and regulations, Florida is the only state that requires the physician to register the patient into the registry. Florida physicians must also determine if no other satisfactory alternative treatment options exist for that patient. This creates an additional step in the ordering process. Also, Florida does not allow patients to grow their own cannabis, which may lower the number of patients in the registry. So, the above qualifications may lead to an estimate of muscle spasm users at the lower end of the range of estimates.

However, CS/CS/SB1030 does not appear to define restrictively “muscle spasm” and the bill’s language in this respect is similar to that of other states at both ends of the range of estimates. Prior to actual experience, there is no sufficient basis to assume the lower range of estimates or the higher range. For example, Montana allows the use of medical marijuana for multiple sclerosis or “a central nervous system disorder resulting in chronic, painful spasticity or muscle spasms,” and only 1.7% of all users list muscle spasms or multiple sclerosis as one of the conditions, for which medical marijuana use was ordered<sup>10</sup>. Montana’s language seems more restrictive than Florida’s. On the other hand, Oregon allows the use of medical marijuana for “a medical condition or treatment for a medical condition that produces, for a specific patient, persistent muscle spasms, including spasms caused by multiple sclerosis” and close to 27% of users list muscle spasms or multiple sclerosis as one of the conditions, for which medical marijuana use was ordered. Colorado, with a percentage of users with muscle spasms almost identical to the average of the eight states of 14.5%, has legislative language identical to that of Oregon but a seemingly much lower share of users for muscle spasms. Colorado, Montana, and Oregon count the number of conditions reported on the forms, so the total of all reported conditions is greater than the total of all patients. No attempt was made here to infer causality or show or prove statistically any relationships or significance.

To determine to what extent the attribution of multiple conditions to one patient might skew the muscle spasm estimates for Florida, statistics for Arizona and Hawaii were reviewed. These two states are the only ones of the eight states used in this analysis that report registrants by condition for those reporting a single condition only. Registrants with multiple conditions are reported separately but the conditions are not identified or added to the count of patients with single conditions. Arizona reports that 1.5% of patients list muscle spasms as the only condition for which they use medical marijuana and Hawaii reports 2.1%. Because these two states do not describe conditions for the registrants with multiple conditions, the shares with muscle spasm in these two states might be higher.

**Muscle Spasms: Estimated Potential Low-THC Cannabis Sales and Sales Tax Revenues**

A	B	C	D	E	F	G	H
	Prevalance (Number of Living Persons with Condition) in 2015	Number of living persons with condition Expected To Use Low-THC cannabis in 2015	Cannabis dosage (mg/day)	Low-THC cannabis price (\$/mg)	Annual Cost per Person (Assumes Daily Usage) (D*E*365) (\$)	Statewide Sales Total (C*F) (\$)	Potential Sales Tax Revenues (G*6%) (\$)
Muscle spasms (ALS, MS, Parkinson's)	N/A						
Low	N/A	6,750	300	0.05	5,475	36,956,250	2,217,375
Middle	N/A	65,250	300	0.05	5,475	357,243,750	21,434,625
High	N/A	129,150	300	0.05	5,475	707,096,250	42,425,775

Currently, legal sales of low-THC cannabis do not exist in Florida, no sales tax is collected, and therefore sales taxes are not currently included in the baseline budget estimates. CS/CS/SB 1030 allows sales of low-THC cannabis starting January 1, 2015. In the event no sales tax exemptions on the product apply, estimated sales of \$120 million to \$790 million are possible within the first full year, generating potential state sales tax revenues of \$7 million to \$47 million. The table below adds estimated sales tax revenues for cancer, seizures, and muscle spasms and presents a low, middle, and high estimate. For cancer and seizures, since only a middle

<sup>10</sup> Currently, close to 8% of patients report muscle spasms (Source: Montana Department of Public Health and Human Services, phone call May 29, 2014).

## REVENUE ESTIMATING CONFERENCE

**Tax:** Medical use of low-THC cannabis

**Issue:** Sales and property tax issues and Department of Health fees

**Bill Number(s):** CS/CS/SB 1030, Enrolled, Engrossed

estimate was developed, the middle estimate is used for the low and the high, while for muscle spasms the range of estimates based on varying levels of participation is presented.

### Cancer, Seizures, & Muscle Spasms: Sales Tax Revenues (\$)

	Low	Middle	High
Cancer	3,879,461	3,879,461	3,879,461
Seizures (epilepsy)	1,107,853	1,107,853	1,107,853
Muscle spasms	2,217,375	21,434,625	42,425,775
<b>Total</b>	<b>7,204,689</b>	<b>26,421,939</b>	<b>47,413,089</b>

The design of CS/CS/SB 1030 authorizes only direct sale from a grower to the end consumer and precludes multiple levels of distribution and resale. Since direct sales between the end consumer and the grower have an agricultural exemption from sales taxes, sales of low-THC cannabis may be expected to be exempt from sales taxes when the product is harvested and sold without further transformation. However, any further processing beyond harvesting that transforms the product nullifies the agricultural-related exemption and makes the product taxable in any other form. Discussions with DOR and DBPR have indicated that no other exemption currently applies to the sale of the product. At this point, it appears that low-THC cannabis will be a taxable product in most circumstances. Thus, the tax impact of sales is expected to be **positive indeterminate**.

The analysis does not take into account the demand for low-THC cannabis that would be created by research institutions.

#### Florida Property Tax Treatment of Low-THC Cannabis:

##### *Potential Suppliers*

The Department of Agriculture and Consumer Services has reported that there are currently 39 Florida nurseries that meet the requirements for eligibility as dispensaries<sup>11</sup>. This count may change if more nurseries provide documentation for eligibility. Even though eligible dispensaries are required to have operated as a nursery in the state continuously for at least 30 years, most likely none of them have experience in growing low-THC cannabis. There are news reports that eligible nurseries are considering partnerships with out-of-state organizations with expertise in the cannabis business<sup>12</sup>. Nurseries may license low-THC strains from growers in other states for growing in Florida.

##### *Property Tax Estimation*

If land is used for growing low-THC cannabis, it will likely qualify as agricultural property for property tax purposes. This means that the property would receive a classified use agricultural assessment. Another possibility is that a nursery structure/greenhouse/factory-type building that is used for production of low-THC cannabis may see a change in property tax status. There has been some speculation that an all-inclusive trailer type piece of equipment might be used for growing and processing of low-THC cannabis. Depending on the nature of this equipment, it could fall under a property tax exemption or classified agriculture use assessment. Because this treatment may increase or decrease the taxable value relative to any prior value, the impact on property taxes is indeterminate—both in terms of magnitude and direction (Local zoning designations will also be a consideration).

#### Impact on the Department of Health:

The Department of Health reports that it will require funds to approve and monitor the dispensing organizations. However, these costs may be fully funded from the initial and license renewal fees charged to the dispensing organizations. The Department will establish the initial application and biennial renewal fee through rule making. At this time, the Department is still in the process of determining the fees necessary to cover the cost associated with establishing and regulating dispensing organizations.

<sup>11</sup> Florida Department of Agriculture and Consumer Affairs, email dated 5/15/2014.

<sup>12</sup> *Potential Florida pot crop prompts flurry of interest, but business will be limited*, May 8, 2014,

<http://www.miamiherald.com/2014/05/08/4106064/potential-florida-pot-crop-prompts.html> (accessed on May 14, 2014).

**REVENUE ESTIMATING CONFERENCE**

**Tax:** Medical use of low-THC cannabis

**Issue:** Sales and property tax issues and Department of Health fees

**Bill Number(s):** CS/CS/SB 1030, Enrolled, Engrossed

**Section 4: Proposed Fiscal Impact**

Sales Tax:

	High		Middle		Low	
	Cash	Recurring	Cash	Recurring	Cash	Recurring
2014-15			+ Indeterminate	+ Indeterminate		
2015-16			+ Indeterminate	+ Indeterminate		
2016-17			+ Indeterminate	+ Indeterminate		
2017-18			+ Indeterminate	+ Indeterminate		
2018-19			+ Indeterminate	+ Indeterminate		

Property Tax:

	High		Middle		Low	
	Cash	Recurring	Cash	Recurring	Cash	Recurring
2014-15			+/- indeterminate	+/- indeterminate		
2015-16			+/- indeterminate	+/- indeterminate		
2016-17			+/- indeterminate	+/- indeterminate		
2017-18			+/- indeterminate	+/- indeterminate		
2018-19			+/- indeterminate	+/- indeterminate		

Department of Health Fees:

	High		Middle		Low	
	Cash	Recurring	Cash	Recurring	Cash	Recurring
2014-15			+ indeterminate	+ indeterminate		
2015-16			+ indeterminate	+ indeterminate		
2016-17			+ indeterminate	+ indeterminate		
2017-18			+ indeterminate	+ indeterminate		
2018-19			+ indeterminate	+ indeterminate		

**List of affected Trust Funds:**

A Department of Health Trust Fund; still being determined (s. 20.435, F.S.).

**Section 5: Consensus Estimate (Adopted: 05/30/2014) : The Conference adopted the following impacts:**

Sales Tax: The Conference adopted the low for cancer and seizures (epilepsy) and expects the impact to be at least the low estimate for muscle spasms. The first year’s cash is expected to be ¼ of the recurring impact.

	GR		Trust		Revenue Sharing		Local Half Cent	
	Cash	Recurring	Cash	Recurring	Cash	Recurring	Cash	Recurring
2014-15	1.6	6.4	Insignificant	Insignificant	0.1	0.2	0.2	0.6
2015-16	6.4	6.4	Insignificant	Insignificant	0.2	0.2	0.6	0.6
2016-17	6.4	6.4	Insignificant	Insignificant	0.2	0.2	0.6	0.6
2017-18	6.4	6.4	Insignificant	Insignificant	0.2	0.2	0.6	0.6
2018-19	6.4	6.4	Insignificant	Insignificant	0.2	0.2	0.6	0.6

	Local Option		Total Local		Total	
	Cash	Recurring	Cash	Recurring	Cash	Recurring
2014-15	0.1	0.6	0.4	1.4	2.0	7.8
2015-16	0.6	0.6	1.4	1.4	7.8	7.8
2016-17	0.6	0.6	1.4	1.4	7.8	7.8
2017-18	0.6	0.6	1.4	1.4	7.8	7.8
2018-19	0.6	0.6	1.4	1.4	7.8	7.8



**REVENUE ESTIMATING CONFERENCE**

**Tax:** Medical use of low-THC cannabis

**Issue:** Sales and property tax issues and Department of Health fees

**Bill Number(s):** CS/CS/SB 1030, Enrolled, Engrossed

Ad Valorem: The Conference adopted the proposed estimate, but with zero cash for the first year.

	GR		Trust		Local/Other		Total	
	Cash	Recurring	Cash	Recurring	Cash	Recurring	Cash	Recurring
2014-15	0.0	0.0	0.0	0.0	0.0	+/-	0.0	+/
2015-16	0.0	0.0	0.0	0.0	+/	+/	+/	+/
2016-17	0.0	0.0	0.0	0.0	+/	+/	+/	+/
2017-18	0.0	0.0	0.0	0.0	+/	+/	+/	+/
2018-19	0.0	0.0	0.0	0.0	+/	+/	+/	+/

Other Taxes and Fees: The Conference adopted the proposed estimate.

	GR		Trust		Local/Other		Total	
	Cash	Recurring	Cash	Recurring	Cash	Recurring	Cash	Recurring
2014-15	**	**	**	**	0.0	0.0	**	**
2015-16	**	**	**	**	0.0	0.0	**	**
2016-17	**	**	**	**	0.0	0.0	**	**
2017-18	**	**	**	**	0.0	0.0	**	**
2018-19	**	**	**	**	0.0	0.0	**	**

## Medical use of low-THC cannabis (CS/CS/SB1030)

1. Estimate of Florida low-THC cannabis users with cancer.

1.1. Estimate the Florida cancer population.

**Estimated Florida Population Living with Cancer  
(Cancer Prevalence)**

Population Categories	2015
Total Population	19,747,233
Population with cancer	835,060

Source: Financial Impact Estimating Conference on proposed constitutional amendment "Use of Marijuana for Certain Medical Conditions" 13-02, Florida Legislature, Office of Economic and Demographic Research. Estimate for 2015 revised to use the February 2014 population projection for 2015.

1.2. Use the average (0.71%) from seven other states for medical marijuana users with cancer as a percentage of all cancer patients from the table below for calculations in the next steps.

**Cancer Patients Using Medical Marijuana for Selected States**

A State	B Population	C Total Users of Medical Marijuana	D Users of Medical Marijuana with Cancer	E Estimated Cancer Prevalence (4.2% of population)	F Cancer Patients Using Marijuana	
					% of All Cancer Patients	% of Total Users of Medical Marijuana
Arizona	6,392,017	36,634	696	270,327	0.26%	1.90%
Colorado	5,029,196	106,817	2,843	212,692	1.34%	2.70%
Hawaii	1,360,301	11,164	152	57,529	0.26%	2.00%
Michigan	9,883,640	124,131	2,526	417,993	0.60%	2.10%
Nevada	2,700,551	4,173	143	114,210	0.13%	3.40%
Oregon	3,831,074	55,937	2,332	162,021	1.44%	4.20%
Rhode Island	1,052,567	4,849	354	44,515	0.80%	7.30%
<b>Total/ Average</b>	<b>30,249,346</b>	<b>343,705</b>	<b>9,046</b>	<b>1,279,287</b>	<b>0.71%</b>	<b>3.40%</b>

Source: Financial Impact Estimating Conference on proposed constitutional amendment "Use of Marijuana for Certain Medical Conditions" 13-02, Florida Legislature, Office of Economic and Demographic Research.

1.3. Apply the average from #1.2. above to #1.1. above to calculate the number of Florida cancer patients that are likely to use low-THC cannabis (assuming that all of them will substitute low-THC cannabis for high-THC marijuana).

**Estimated Florida Low-THC Cannabis Users with Cancer**

Population Categories	2015
Population with cancer	835,060
Low-THC cannabis users with cancer	5,905

2. Estimate of Florida low-THC cannabis users with epilepsy.

2.1. Estimate the Florida epilepsy population.

**Estimated Florida Population Living with Epilepsy  
(Epilepsy Prevalence)**

Population Categories	2015
Total Population	19,747,233
Estimated % population with epilepsy	2.0%
Population with seizures/epilepsy	394,945

Sources: 100,000 Reasons: Medical Marijuana In The Big Apple, Appendix: Methodology, New York City Comptroller John C. Liu, August 2013, [http://comptroller.nyc.gov/wp-content/uploads/2013/08/MedMarij\\_Summary-828.pdf](http://comptroller.nyc.gov/wp-content/uploads/2013/08/MedMarij_Summary-828.pdf), Epilepsy Foundation of Florida, phone call, based on The Florida Department of Health 2005 Behavioral Risk Factor Surveillance System Survey.

2.2. Use the average (0.85%) from eight other states for medical marijuana users with epilepsy as a percentage of all epilepsy patients from the table below for calculations in the next steps. Assumes epilepsy rates in other states are identical to Florida rates. This is probably overestimating the epilepsy prevalence in other states.

**Epilepsy Patients Using Medical Marijuana for Selected States**

A State	B Population	C Total Users of Medical Marijuana	D Users of Medical Marijuana with Epilepsy/Seizures	E Estimated Epilepsy Prevalence (2% of population)	F Epilepsy Patients Using Marijuana	
					% of All Epilepsy Patients	% of Total Users of Medical Marijuana
Arizona	6,392,017	36,634	255	127,840	0.20%	0.70%
Colorado	5,029,196	106,817	1,824	100,584	1.81%	1.71%
Hawaii	1,360,301	11,164	48	27,206	0.18%	0.43%
Michigan	9,883,640	124,131	1,414	197,673	0.72%	1.14%
Montana	989,415	4,503	207	19,788	1.05%	4.60%
Nevada	2,700,551	4,173	100	54,011	0.19%	2.40%
Oregon	3,831,074	55,937	1,362	76,621	1.78%	2.43%
Rhode Island	1,052,567	4,849	125	21,051	0.59%	2.58%
<b>Total/ Average</b>	<b>31,238,761</b>	<b>348,208</b>	<b>5,335</b>	<b>624,775</b>	<b>0.85%</b>	<b>1.80%</b>

Sources: 100,000 Reasons: Medical Marijuana In The Big Apple, Appendix: Methodology, New York City Comptroller John C. Liu, August 2013, [http://comptroller.nyc.gov/wp-content/uploads/2013/08/MedMarij\\_Summary-828.pdf](http://comptroller.nyc.gov/wp-content/uploads/2013/08/MedMarij_Summary-828.pdf), Epilepsy Foundation of Florida, phone call, based on The Florida Department of Health 2005 Behavioral Risk Factor Surveillance System Survey.

2.3. Apply the average from #2.2. above to #2.1. above to calculate the number of Florida epilepsy patients that are likely to use low-THC cannabis.

**Estimated Florida Low-THC Cannabis Users with Epilepsy**

Population Categories	2015
Population with epilepsy	394,945
Low-THC cannabis users with epilepsy	3,372

3. Estimate of Florida low-THC cannabis users with muscle spasms.

	Low	Middle	High
Florida estimated medical marijuana users if the proposed constitutional amendment passes	450,000	450,000	450,000
% of medical marijuana registrants in eight states that have muscle spasms	1.5%	14.5%	28.7%
Low-THC cannabis users with muscle spasms	6,750	65,250	129,150

Note: Muscle spasm shares are as follows: Arizona: 1.5% (lowest of the eight states), average for the eight states: 14.5%, Rhode Island: 28.7% (highest of the eight states). Percentages are calculated by dividing the total number of muscle spasm diagnosis by the total number of patients (patients often report more than one condition).

Sources: Financial Impact Estimating Conference on proposed constitutional amendment "Use of Marijuana for Certain Medical Conditions" 13-02, Florida Legislature, Office of Economic and Demographic Research. 100,000 Reasons: Medical Marijuana In The Big Apple, Appendix: Methodology, New York City Comptroller John C. Liu, August 2013, [http://comptroller.nyc.gov/wp-content/uploads/2013/08/MedMarij\\_Summary-828.pdf](http://comptroller.nyc.gov/wp-content/uploads/2013/08/MedMarij_Summary-828.pdf)

4. Low-THC cannabis price and dosage information.

Source: Realm of Caring Foundation.

Dosage for epilepsy	2-6 mg/lb of body weight
Assumed average dosage for epilepsy	3 mg/lb of body weight
Assumed average dosage for muscle spasms	3 mg/lb of body weight
Assumed average dosage for cancer	10 mg/lb of body weight
Assumed average body weight for all indications	100 lbs

Low-THC cannabis is typically taken daily.

Daily amounts consumed for 1 person, 100 lb body weight	Low-THC cannabis Dosage (mg/day)
Cancer	1,000
Epilepsy	300
Muscle Spasms	300

Product	Price per mg (\$)
Charlotte's Web (Realm of Caring) Low-THC cannabis for epilepsy and muscle spasms	0.05
High-THC for cancer	0.03

5. Florida Low-THC cannabis use and cost estimates: cancer and seizures.

Assume daily usage, year-round at dosages and prices from #4 above.

**Cancer & Seizures: Estimated Potential Low-THC Cannabis Annual Use and Cost**

A	B	C	D	E	F
	Prevalance (Number of Living Persons with Condition) in 2015	Number of living persons with condition Expected To Use Low-THC cannabis in 2015	Cannabis dosage (mg/day)	Low-THC cannabis price (\$/mg)	Cost of Daily Usage per Year per Person (D*E*365) (\$)
Cancer	835,060	5,905	1,000	0.03	10,950
Seizures (epilepsy)	394,945	3,372	300	0.05	5,475
<b>Subtotal</b>	<b>1,230,004</b>	<b>9,277</b>			

6. Florida Low-THC cannabis sales and sales tax revenues estimates: cancer and seizures.

Assume only a share of patients with the specified conditions will use low-THC cannabis and that share is determined by applying averages of users with the respective conditions in the medical marijuana registries in eight other states.

**Cancer & Seizures: Estimated Potential Low-THC Cannabis Sales and Sales Tax Revenues**

A	B	C	D	E	F	G	H
	Prevalance (Number of Living Persons with Condition) in 2015	Number of living persons with condition Expected To Use Low-THC cannabis in 2015	Cannabis dosage (mg/day)	Low-THC cannabis price (\$/mg)	Annual Cost per Person (Assumes Daily Usage) (D*E*365) (\$)	Statewide Sales Total (C*F) (\$)	Potential Sales Tax Revenues (G*6%) (\$)
Cancer	835,060	5,905	1,000	0.03	10,950	64,657,681	3,879,461
Seizures (epilepsy)	394,945	3,372	300	0.05	5,475	18,464,221	1,107,853
<b>Subtotal</b>	<b>1,230,004</b>	<b>9,277</b>				<b>83,121,902</b>	<b>4,987,314</b>

7. Florida Low-THC cannabis use and cost estimates: muscle spasms.

Assume daily usage, year-round at dosages and prices from #4 above.

**Muscle Spasms: Estimated Potential Low-THC Cannabis Annual Use and Cost**

A	B	C	D	E	F
	Prevalance (Number of Living Persons with Condition) in 2015	Number of living persons with condition Expected To Use Low-THC cannabis in 2015	Cannabis dosage (mg/day)	Low-THC cannabis price (\$/mg)	Annual Cost per Person (Assumes Daily Usage) (D*E*365) (\$)
Muscle spasms (ALS, MS, Parkinson's)	N/A				
Low	N/A	6,750	300	0.05	5,475
Middle	N/A	65,250	300	0.05	5,475
High	N/A	129,150	300	0.05	5,475
<b>Subtotal</b>	0	0			

8. Florida Low-THC cannabis sales and sales tax revenues estimates: muscle spasms.

Assume only a share of patients with the specified conditions will use low-THC cannabis and that share is determined by applying averages of users with the respective conditions in the medical marijuana registries in eight other states.

**Muscle Spasms: Estimated Potential Low-THC Cannabis Sales and Sales Tax Revenues**

A	B	C	D	E	F	G	H
	Prevalance (Number of Living Persons with Condition) in 2015	Number of living persons with condition Expected To Use Low-THC cannabis in 2015	Cannabis dosage (mg/day)	Low-THC cannabis price (\$/mg)	Annual Cost per Person (Assumes Daily Usage) (D*E*365) (\$)	Statewide Sales Total (C*F) (\$)	Potential Sales Tax Revenues (G*6%) (\$)
Muscle spasms (ALS, MS, Parkinson's)	N/A						
Low	N/A	6,750	300	0.05	5,475	36,956,250	2,217,375
Middle	N/A	65,250	300	0.05	5,475	357,243,750	21,434,625
High	N/A	129,150	300	0.05	5,475	707,096,250	42,425,775

9. Add cancer, seizures, and muscle spasm sales tax estimates from #6 & #8.

**Cancer, Seizures, & Muscle Spasms: Sales Tax Revenues (\$)**

	Low	Middle	High
Cancer	3,879,461	3,879,461	3,879,461
Seizures (epilepsy)	1,107,853	1,107,853	1,107,853
Muscle spasms	2,217,375	21,434,625	42,425,775
<b>Total</b>	<b>7,204,689</b>	<b>26,421,939</b>	<b>47,413,089</b>