STATEHOUSE REPORT

Published by: County Commissioners Association of Ohio

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August 2, 2024

Recreational marijuana update; sales to begin next week

At last year's November election, Ohioans voted to enact Issue 2, a citizen-initiated statute that legalized adult use cannabis and created a regulatory structure for the new industry and an excise tax with a prescribed distribution formula. There have not been any legislative changes to the citizen-enacted statute, and, according to multiple news sources, some dispensaries will be certified to begin recreational sales on Tuesday (August 6).

What Was Passed

The adult use cannabis provisions are established in Chapter 3780 of the Revised Code. Shortly after Issue 2 passed, CCAO published CAB 2023-06: Issue 2 Adult Use Cannabis. The CAB provides more detailed information about Chapter 3780's provisions, but this section will provide an overview of key sections to counties.

Counties have very little involvement in the adult use cannabis system. Sales are subject to the sales tax, so counties may see increased sales tax receipts depending on the volume of sales within their jurisdiction, and sales of adult use cannabis will increase the Local Government Fund as well. ***As an important note***, since it appears that some sales may occur next week and thus during the statewide Extended Sales Tax Holiday, sales on marijuana products are still being taxed. Marijuana products are on the list of products that are not eligible for the sales tax holiday.

Chapter 3780 gives municipalities and townships the authority to limit or prohibit adult use cannabis operators within their jurisdictions, but counties do not have a similar authority.

There is a 10% excise tax on sales that is distributed for four different purposes. These are a social equity and jobs fund administered by the Department of Development, a substance abuse and addiction fund administered by the Department of Mental Health and Addiction Services, a "host community" fund which provides allocations to municipalities and townships with cannabis operators, and a small fund to support the operations of the Division of Cannabis Control.

When Does It Start?

The initiative is fully effective, but certain aspects of it have not yet begun due to administrative processes. For example, consuming cannabis products is legal, as is growing plants at home (within bounds set by the law).

Sales, however, have not yet begun. The Division of Cannabis Control has begun issuing dual licenses for operation of growers, processors, and testing labs. The dual licenses are necessary due to the different specifications that medical marijuana and recreational marijuana must meet.

While licenses for those facilities have been granted, there are no licensed recreational use dispensaries. Priority is being given to medical marijuana dispensaries to apply for "dual use" permits. These applications must be approved or rejected no later than September 7. There will not be a "Day 1" statewide; rather, licensed dispensaries will be able to start operating after they are approved. According to several news sources, the Division of Cannabis Control has notified some dispensaries that they can begin sales this Tuesday, but the Division has not given any official confirmation as of noon today.

According to data compiled by the Moritz College of Law at Ohio State University, as of July 19, there are 68 local jurisdictions that have enacted prohibitions on recreational marijuana operators. Some of these prohibitions are of indefinite length while others are for a specified length.

What Might Change?

Shortly after Issue 2 passed, the Governor and the General Assembly indicated interest in changing aspects of the statute. However, the House and the Senate have different approaches to amending Chapter 3780. Some unifying themes are providing a continuing revenue stream for county jail projects, dedicating funding to other public safety purposes, and retaining the applicability of the sales tax to recreational sales.

The Senate Plan

The Senate amended House Bill 86 (Representative Jeff LaRe) to include the chamber's plan for approaching adult use cannabis. One key change is the increase of the excise tax levied on adult use cannabis products to 15% (Chapter 3780 sets the rate at 10%). The Senate would distribute the revenue generated from the excise tax according to the following percentages, with a maximum distribution for each purpose:

- 28% (up to $80 million) – Grants through the Department of Rehabilitation and Corrections (DRC) for operating and/or construction cost for county jails.
    - DRC must use the jail funding formula included in the state operating budget to distribute grants.
    - This allocation sunsets after ten years.
    - After sunset, the 28% allocation will be distributed to the General Revenue Fund.
- 16% (up to $45 million) – To the Department of Public Safety (DPS) to fund peace officer training.
    - After five years, allocation increases to 19% (up to $55 million).

- 14% (up to $40 million) – To the Attorney General to fund law enforcement continuing education training costs.
    - Begins in 2026.
- 9% (up to $25 million) – To the Department of Mental Health and Addiction Services (OMHAS) to fund substance abuse treatment, prevention, and education programs.
    - After five years, allocation increases to 11% (up to $30 million).
- 9% (up to $25 million) – OMHAS to fund and administer the 9-8-8 suicide prevention hotline.
- 5% (up to $15 million) – To the Attorney General to reimburse certain costs associated with expungement for marijuana possession offenses decriminalized by the bill.
    - Sunsets after five years.
- 5% (up to $15 million) – To the Division of Criminal Justice Services to fund local drug task forces.
- 5% (up to $15 million) – To fund safe driving programs administered by DPS.
- 4% (up to $13 million) – To DPS to pay the expenses of administering the Ohio Investigative Unit.
- 3% (up to $8 million) – To pay for administrative expenses of the Division of Marijuana Control.
- 2% (up to $5 million) – To the Department of Health to fund poison control centers.

Any revenue above each purposes' maximum allocation will be deposited into the General Revenue Fund. Functionally, this means that any revenue generated by the excise tax more than $286 million will go to the state GRF.

Subject to voter approval, counties have permissive authority to levy an additional 3% excise tax (in 0.25% increments) on adult use cannabis sales to support artistic, cultural, and entertainment opportunities.

The Senate plan makes any property used to cultivate adult use marijuana ineligible to be valued as CAUV. This is very similar to how current law views land used for medical marijuana.

A municipal corporation or township can prohibit, or limit the number of, adult use cannabis operators permitted within the boundaries of the subdivision, subject to certain limitations (R.C. 3780.25(A)).

The Senate plan will also limit the amount of dispensary licenses to 350 across the state of Ohio and prohibits a dispensary from being located within 500 feet of schools, churches, public libraries, or public playgrounds and parks.

The House Plan
The House's plan for adult use cannabis is House Bill 354 (Representative Jamie Callendar).

The House version keeps the 10% excise tax in Chapter 3780, along with a similar tax revenue distribution:

- 36% – Social Equity and Jobs Program, funded through the Department of Development.
    - Counties will run the programs and receive grants from Development (more information below).
- 36% – Host Community Cannabis Fund.
    - Distributed to municipalities and townships.
- 12.5% – 9-8-8 Suicide and Prevention Hotline, funded through OMHAS.
- 10% – Substance Abuse and Addiction Fund which aids county sheriffs in providing mental health services in county jails.
- 2.5% – Substance Abuse and Addiction Fund to support OMHAS in developing the state's mental health workforce.
- 3% – Division of Marijuana Control operations.

A provision not found in either [Chapter 3780] or the Senate's plan is a 10% cultivators gross receipts tax. The House will allocate funding to county jails using the formula from contained in the operating budget, similar to the Senate's plan. The full allocation of the cultivators gross receipts tax is as follows:

- 36% – Adult Use Cannabis Local Jail Fund
- 36% – Adult Use Cannabis County Sheriff Fund
- 23% – Adult Use Cannabis Law Enforcement Training Fund
- 5% – Crime Victims Assistant Fund

The House plan mirrors the Senate plan's provisions regarding cultivation land being ineligible for CAUV and siting restrictions within 500 feet of certain locations. Unlike the Senate plan, however, the House does not limit the number of dispensaries that can operate statewide.

One significant change that counties should be aware of in the House plan is an adjustment of the Social Equity and Jobs Program established in [Chapter 3780]. The chapter gave the Department of Development the primary responsibility of developing and administering the program across the state.

Under HB 354, these responsibilities will now be under the board of county commissioners in each county or a designed a department, board, commission, or agency.

The county's responsibilities under the program include the following:

- Individuals wanting certification will apply to the county once the county establishes procedures.
- Counties will certify cannabis social equity and jobs program applicants in accordance with rules developed under the Dept. of Development.
- Grants will be provided to counties for the following program purposes:
    - Financial assistance;
    - Loans;
    - Grants;
    - Technical assistance.

- Grant funding may also be used by a county for the following:
  - Community engagement;
  - Economic development;
  - Social programming.

In Review

Adult use cannabis sales appear likely to begin next week and will expand as the Division of Cannabis Control approves more licenses as the year continues. Under current law, counties where sales occur will receive sales tax revenue and the Local Government Fund may see an increase.

Changes to the adult use cannabis law are still being discussed in the Statehouse and around Capitol Square. CCAO will continue to work with the Governor's Office and both chambers of the legislature to ensure that any change to the excise tax revenue distribution includes funding for vital public safety purposes, particularly ongoing funding to keep county jails safe, secure, and able to meet the needs of growing populations of inmates who need mental health care and drug addiction treatment.

If you have any questions concerning recreational marijuana law, please contact the CCAO Policy Team at policy@ccao.org.

Property tax circuit breaker legislation introduced in the House

Representatives Dani Isaacsohn and Thomas Hall, along with 26 cosponsors, have introduced House Bill 645. The legislation authorizes a tax credit or "circuit breaker" for eligible homeowners and renters whose property taxes, or the portion of rent attributable to property taxes, exceeds 5% of their income. The bill language designates 15% of gross rent as being attributable to property taxes.

The refundable credit would be claimed by filing an income tax return. The credit amount is capped at $1,000 per year initially for households with total household income of $60,000 or less. Credit amounts would be phased out for higher income households, with the credit becoming unavailable for households with incomes above $100,000. The credit would be limited to homes under a certain value ($438,000 in the first year) and rental units with a leasing cost under a specified monthly amount ($1,370). Monetary thresholds in the bill will be adjusted each year for inflation.

Similar legislation, Senate Bill 271 (Senators Lou Blessing, III, and Hearcel Craig), has received several hearings in the Senate Ways and Means Committee. CCAO submitted written proponent testimony supporting SB 271 and asked that the legislature first expand the exemption available through homestead credit. CCAO also reminded the committee that any property tax credit or deferral program should continue to reimburse counties and other local governments for lost revenue.

Members with questions about the bills should contact Senior Policy Analyst Jon Honeck, jhoneck@ccao.org.

Defiance County receives first funding from All Ohio Future Fund

Earlier this week, the DeWine-Husted Administration announced that a project in Defiance County will be the first recipient of funding under the All Ohio Future Fund. The $14.6 million will assist in financing the construction of a water and wastewater/sewer extension and roadwork project within the existing Baltimore Avenue Industrial Corridor in Defiance.

The All-Ohio Future Fund was first announced during Governor DeWine's 2023 State of the State Address where he expressed the importance that every region within Ohio experiences the current economic revival. The General Assembly then allocated $750 million for the fund in the operating budget.

Applications are still open and will be on a rolling basis until funding is depleted. Eligible projects under the program include public roadwork, water and wastewater infrastructure, design and engineering, demolition, wetland mitigation, utility gap funding, and one-time site enhancements. Program guidelines stipulate that awardees must secure site occupants within five years.

If there are any questions regarding the All Ohio Future Fund, please reach out to Senior Policy Analyst Jon Honeck at jhoneck@ccao.org or Policy Analyst James Kennedy at jkennedy@ccao.org.

Legislative Activity

Introduction of Bills

The following bill(s) that may be of interest to counties were introduced this week:

- House Bill 645 (Representatives Dani Isaacsohn and Thomas Hall): To authorize a refundable income tax credit or rebate for homeowners and renters whose property taxes or a portion of their rent exceed five per cent of their income.
- House Bill 647 (Representative Joe Miller): To require a county auditor to transfer certain funds from the county's dog and kennel fund to municipal corporations within the county that employ dog wardens.