

Department of Finance and Administration

Legislative Impact Statement

Bill: SB238

Bill Subtitle: TO AMEND THE ARKANSAS MEDICAL MARIJUANA AMENDMENT OF 2016; AND TO DELAY IMPLEMENTATION UNTIL THE EFFECTIVE DATE OF THE LEGALIZATION OF MARIJUANA IN THE UNITED STATES AND THE STATE OF ARKANSAS.

Basic Change :

Sponsor: Senator Rapert

The proposal would amend the Arkansas Medical Marijuana Amendment of 2016 to provide that the effective date of the legalization of medical marijuana in Arkansas would be the date on which the provisions of the Arkansas Medical Marijuana Amendment of 2016 or any provisions of the enabling legislation are not in violation of United States statutory law. The bill also provides that the Medical Marijuana Commission, the Alcohol Beverage Control Division, and the Arkansas Department of Health would have 180 days after the effective date to complete rule-making to administer the provision of the Amendment.

Revenue Impact :

None.

Taxpayer Impact :

The provisions of the Arkansas Medical Marijuana Amendment of 2016 would become effective upon legalization of marijuana under federal law.

Resources Required :

None.

Time Required :

None.

Procedural Changes :

None.

Other Comments :

None.

Legal Analysis :

SB238 creates an indefinite delay of the provisions of the Arkansas Medical Marijuana Amendment of 2016 ("Amendment") until medical marijuana is legalized by the federal government. While its purpose is to delay implementation of the Amendment, the bill neglects to amend several timelines established by the Amendment that are not tied to the effective date.

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Should SB238 be enacted, this will result in the creation of several funds that will lack funding and the creation of rules that will not be utilized. These provisions include:

1. §17(b)(4)(B) of the Amendment, which requires the General Assembly to create the Medical Marijuana Commission Fund by July 1, 2017;
2. §17(b)(6)(B) of the Amendment, which requires the General Assembly to create the Vocational and Technical Training Special Revenue Fund by July 1, 2017; and
3. §17(b)(6)(C) of the Amendment, which requires the Department of Finance and Administration to promulgate rules to implement the grant program described in subsection §17(b)(7).

Additionally, it should be noted that while most timelines on rule promulgation were amended to strike "this amendment" and replaced with "the legalization of medical marijuana in the United States and the State of Arkansas." However, §4(c)(1) does not reflect that change and causes the implementation language to no longer be parallel with other sections. This bill effectively strips the Amendment of a foreseeable effective date and could potentially create litigation exposure for the State.